RETURN DATE: May 23, 2006

		SUPERIOR COURT
STATE OF CONNECTICUT	:	
	:	JUDICIAL DISTRICT OF HARTFORD
Plaintiff,	:	
v.	:	
	:	
THE HARTFORD FINANCIAL SERVICES GROUP, INC.; and HARTFORD LIFE, INC.	:	
	:	
Defendants.	:	MAY 10, 2006

COMPLAINT

I. SUMMARY OF THE CASE

1. This action seeks redress for a scheme perpetrated by The Hartford Financial Services Group, Inc. and Hartford Life, Inc. (collectively, "The Hartford") to secretly and systematically induce brokers to steer their clients – pension plan sponsors and fiduciaries – to purchase single premium group annuities from The Hartford. To ensure the success of the scheme, The Hartford funneled tens of thousands of dollars, and in some cases hundreds of thousands of dollars, of secret payments that were, unknown to the pension plan sponsor, built into the cost of their annuity.

2. Every year over a billion dollars of retirement plan assets are invested in single premium group annuities by pension plan sponsors, including Fortune 500 companies, small businesses, healthcare systems and hospitals, public education systems, and other entities. The annuities are purchased and used to satisfy accrued pension liabilities for both ongoing defined-benefit pension plans or frozen defined-benefit pension plans when those plans are terminated or restructured. Competition for these investment plan asset dollars among insurance companies is

fierce, with many insurers competing for the relatively small number of plans that will purchase these annuities annually. Moreover, the market for group annuities shows no sign of abating, as several large companies, including I.B.M., Verizon, Hewlett-Packard, Motorola and Sears have all recently announced that they have frozen their pension plans for many employees.

3. Due to the complexities associated with a pension plan's administrative requirements and legal obligations, the plan sponsor's fiduciary obligations to the plan, and the intricacies of evaluating and selecting an appropriate annuity, many plan sponsors and fiduciaries turn to the services of an experienced pension broker to guide and navigate the plan through the myriad steps necessary to successfully make the right annuity choice. Oftentimes the process of purchasing an annuity requires a broker to arrange for and conduct a course of preliminary and final bidding among the competing insurers. At the conclusion of the bidding the broker will most often provide the plan with a written recommendation regarding the most appropriate annuity for the plan to purchase.

4. Beginning at least as early as 1998, The Hartford conceived of a scheme to preserve and increase its share of the market for single premium group annuities by secretly compensating selected brokers in return for the brokers steering their plan clients to The Hartford for the purchase of single premium group annuities. The Hartford devised what became known as Expense Reimbursement Agreements, and later consulting agreements, which purported to reimburse the brokers for expenses they incurred in placing an annuity with The Hartford, or reimbursed the broker for alleged services they provided The Hartford. In reality, as confirmed in an internal The Hartford email, these financial arrangements were intended "to change[] the buying habit of the intermediary . . . that is what we are trying to accomplish." In essence, then, the agreements were nothing more then sham arrangements, utilized to provide the appearance of

legitimacy to what was, in effect, a furtive plan to pay undisclosed sums to the brokers in return for the brokers steering an increasing volume of "profitable" business to The Hartford, and providing The Hartford with "last looks" and inside intelligence on the bidding, which ultimately gave The Hartford an advantage that was not otherwise available to the other competing insurers.

5. Thus, while the brokers held themselves out as the plan's "expert" consultant and "fiduciary", they were secretly working to ensure that The Hartford would be selected as the annuity provider in order that the broker could achieve additional undisclosed compensation. In a 2003 e-mail discussing the "goals of the ERA", The Hartford's salesman stated:

> The expectations of the ERA agreements is to receive favorable status in quoting activity including but not limited to receiving favorable treatment in the bidding process (last looks), being able to achieve expected/attractive [profit] margins either through exploring alternate solutions and value added actions by the intermediary [broker].

Further, by The Hartford's conditioning the secret payment on its receipt of profitable business, The Hartford created a significant conflict of interest between the broker and its client, because if the broker negotiated too low a premium, the broker would not receive its secret payment. The hidden payments, which were in addition to the disclosed commissions The Hartford paid the brokers, or the fees the plans agreed to pay the brokers directly, were, unbeknownst to the plans, added to their premium and resulted in increased costs for the plans.

6. Through these arrangements, The Hartford not only made affirmative, material and deceptive misrepresentations to its customer, but its conduct also resulted in contributing - - in fact causing -- a breach of the broker's fiduciary duties to its client. In essence, The Hartford purchased the loyalty of the broker.

7. Throughout the period 1998 through 2004, The Hartford paid out millions of dollars of undisclosed payments, causing the plans to pay more in annuity premiums than they

should have paid. In return, The Hartford captured upwards of $800 million dollars worth of annuity placements, and reaped millions of dollars in investment profits on the money it invested from sales it might otherwise not have made, as well as future profits not yet realized from its long-term investment of the premiums.

8. In pursuing these and other corrupt business practices, The Hartford violated the Connecticut Unfair Trade Practices Act. Pursuant to Conn. Gen. Stat. § 42-110m, the Connecticut Attorney General, in the name of the State of Connecticut, seeks restitution, disgorgement, and civil penalties for the injuries suffered by Connecticut consumers and other consumers, as well as other injunctive and equitable relief to prevent these corrupt business practices from happening again.

II. PARTIES

9. Plaintiff State of Connecticut, represented by Richard Blumenthal, Attorney General of the State of Connecticut, brings this action at the request of Edwin R. Rodriguez, Commissioner of the Department of Consumer Protection for the State of Connecticut, pursuant to Conn. Gen. Stat. § 42-110m of the Connecticut Unfair Trade Practices Act (CUTPA).

10. Defendant The Hartford Financial Services Group, Inc. is a Delaware corporation with its principal place of business in Hartford, Connecticut. The Hartford Financial Services Group, Inc. sells a variety of insurance products to businesses including group annuity products. At all times relevant to this Complaint, The Hartford Financial Services Group, Inc. transacted business in the State of Connecticut through its various local and regional offices. Decisions regarding the group annuities at issue here were made in Connecticut by employees of The Hartford Financial Services Group, Inc. working in Connecticut. The agreements to make the undisclosed contingent commission payments were entered into in Connecticut. The secret

payments to the brokers were sent from Connecticut, and the ill-gotten premium The Hartford Financial Services Group, Inc. derived from the scheme were received in Connecticut.

11. Defendant Hartford Life, Inc. is a Delaware corporation with its principal place of business in Simsbury, Connecticut. Hartford Life, Inc. is a leading provider of investment vehicles designed to help both individual investors, institutions, corporate and government employers, and high-net-worth individuals. At all times relevant to this Complaint, Hartford Life, Inc. transacted business in Connecticut through its officers, employees, and agents.

12. Whenever reference is made in this Complaint to any representation, act or transaction of any entity, such allegation shall be deemed to mean that the principals, officers, directors, employees, agents or representatives while actively engaged in the course and scope of their employment, did or authorized such representations, acts, or transactions on behalf of that entity.

III. THE PLAYERS

A. The Hartford

13. The Hartford Financial Services Group, Inc. is one of the oldest and largest investment and insurance companies based in the United States with nearly 30,000 employees and $2.1 billion in income in 2004. The Hartford Financial Services Group, Inc. is a leading provider of investment products – annuities, mutual funds, college savings plans – as well as life insurance, group and employee benefits, automobile and homeowners' insurance, and business insurance. Through its employees, as well as through independent agents, brokers and financial institutions, The Hartford Financial Services Group, Inc. serves millions of customers worldwide. In 2005, The Hartford Financial Services Group, Inc. was ranked 88th on the Fortune 100 list of companies.

14. Hartford Life, Inc., along with its subsidiary, Hartford Life and Annuity Company, is one of the most respected insurance companies in the United States which, as the company touts, "has been meeting its customer obligations since 1902." Among the investment products sold through the Hartford Life and Annuity Company are variable and fixed annuities, mutual funds, 401(k) plans, terminal and maturity funding agreements, structured settlement and institutional annuities and guaranteed investment contracts. The Hartford Financial Services Group, Inc., Hartford Life, Inc., and its subsidiary, Hartford Life and Annuity Company will, hereinafter, be referred to as "The Hartford".

B. <u>The Brokers</u>

15. In the annuity market, as is common with many other investment and insurance products sold within the United States, brokers play a significant and important role in assisting institutional clients in the selection of an appropriate annuity. The broker's role with respect to the purchase of a single premium group annuity for a pension plan is to assist the client – often the plan administrator or fiduciary -- with assessing the myriad issues and factors necessary to selecting the "safest available annuity" for the benefit of retirement plan particpants.

16. Broker Dietrich & Associates, Inc. ("Dietrich") is a Pennsylvania corporation with its principal place of business in Plymouth Meeting, Pennsylvania. Dietrich is a pension financial services firm providing specialized annuity brokerage and consulting services to institutional clients in the area of single premium group annuity contracts and is the "largest independent broker in the single premium group annuity market." Dietrich promotes itself on its website and through other marketing materials as positioned, through its knowledge and relationships, to assist its clients in the evaluation and selection of group annuity products. Part of its sales pitch to prospective clients is that Dietrich is "totally objective in our carrier

evaluation and selection process . . . ." As a result of Dietrich's expertise, experience and objectivity when evaluating potential annuities, Dietrich claims that its "clients have the assurance that contracts purchased through our organization are the most competitive available."

17. Broker Brentwood Asset Advisors ("Brentwood"), with offices in California and Florida, advertises itself as an annuity search service broker that prides itself on the "unrivaled due diligence" it provides its clients searching for the right annuity for their plan. Owing to Brentwood's "passion for excellence" and knowledge within the annuity marketplace, and the relationships it has built over the years with insurance companies, Brentwood claims to provide its clients with services "that enable the fiduciary to make an informed decision." In 2002, Brentwood estimated that it placed 69% of all group annuity contracts sold nationwide.

18. Broker BCG Terminal Funding ("BCG"), with offices in Texas, Massachusetts, Illinois, Kentucky, and California, markets itself as one of the largest terminal funding consulting placement firms in the nation. On its website, BCG tells prospective clients that it will "help them cut through the clutter" of information and choices in the annuity marketplace. BCG positions itself as "YOUR ally and confidant" and the one a client can "trust to make the proper recommendations" to "navigate you through the sea of decisions needed to make proper fiduciary choices."

19. Broker USI Consulting Group ("USI"), is part of USI Holdings Corporation, one of the United States' largest property & casualty, benefits broker, and consultants. USI is headquartered in Glastonbury, Connecticut. On its website, and through other promotional materials, USI markets itself as a firm that does not address a client's particular needs with a "preconceived notion" as to what is the right solution. Rather, when a client "partners" with USI, that client taps into the company's many consultants whose claimed goal is to "maximize

the value of every dollar spent" to provide the best in "value-added service" in selecting the right investment.

IV. <u>THE SINGLE PREMIUM GROUP ANNUITY MARKETPLACE</u>

A. Background

20. A single premium group annuity ("SPGA") contract is a fixed income investment purchased by a plan sponsor to fund immediate annuities for retirement plan participants who are leaving their plan and wanting to receive their benefit distribution in the form of annuity income. Additionally, a SPGA is used to satisfy accrued pension liabilities for ongoing and frozen defined benefit plans when such plans are terminated, due, perhaps, to a bankruptcy, merger, restructure, or when plan liabilities are settled for other purposes. An SPGA is often purchased by an employer or plan sponsor to provide a monthly annuity benefit payment for both immediate annuitants (a company's retirees due a retirement benefit) or for deferred annuitants (those employees or plan participants not yet eligible for retirement benefits).

21. The Hartford's SPGAs often take the form of one of two different types of contracts: Terminal Funding Agreements and Maturity Funding Agreements.

22. A Terminal Funding Agreement is used in circumstances where an employer terminates a pension plan while still fulfilling its fiduciary responsibility to provide current and future retiree benefits. Such agreements provide guaranteed, fixed periodic payments to a designated group of participants under a defined benefit plan. Terminal Funding Agreements occur due to mergers and acquisitions, bankruptcies, plant shutdowns or court ordered liquidations.

23. A Maturity Funding Agreement is a group fixed annuity that provides departing plan participants with fixed income payments for life or some designated period.

24. SPGA contracts, whether terminal or maturity, range in size from tens of thousands of dollars in premium, to upwards of hundreds of millions of dollars in premium.

25. A number of insurance companies sell SPGA contracts and compete for plan dollars in the marketplace. Among the insurance companies that sold SPGA contracts during the relevant time period are: The Hartford, Principal Life Insurance Co. ("Principal"), Travelers Insurance Co., AIG Life Insurance Co., John Hancock Life Insurance Co., Continental Assurance Company ("CNA") and United of Omaha Life Insurance Co. ("United of Omaha").

26. No two insurance companies are exactly alike and, thus, while insurance rating services such as Standard & Poor's and Moody's are helpful in assessing the credit worthiness of a given insurer, a myriad of other factors must be analyzed to ensure the plan sponsor or fiduciary chooses the "safest available annuity" when it buys a group annuity for a pension plan.

27. In 1995, the United States Department of Labor ("DOL") issued Interpretive Bulletin 95-1, which outlines some of the criteria a plan administrator or other fiduciary should consider to determine the "Safest Available Annuity" for retirement plan participants. According to the DOL bulletin, a plan administrator or fiduciary should consider its purchase decision after considering the following factors:

- The quality and diversification of the annuity provider's investment portfolio;
- The size of the insurer relative to the proposed contract;
- The level of the insurer's capital and surplus;
- The lines of business of the annuity provider and other indications of the insurer's exposure to liability; and
- The structure of the annuity contract and the guarantees supporting the annuities, such as the use of separate accounts.

28. Given the number of factors to be considered, the breadth and diversity of insurance companies in the market, the particular needs of a particular plan, and the overarching requirement that the selected insurer meet the safest annuity obligation imposed by the Employee Retirement Income Security Act of 1974 ("ERISA"), it is only prudent that a plan administrator or fiduciary should seek the guidance, expertise and experience of an SPGA broker to assist the plan in its due diligence in order to make an appropriate investment choice.

B. The Annuity Selection Process

29. While the process of purchasing an SPGA contract for a plan differs depending on the needs of the plan and the broker selected to consult and shepherd the process, most SPGA brokers generally follow a similar procedure:

- Consult with the plan regarding the timing and structure of the annuity purchase;
- Prepare the request for proposal ("RFP") incorporating all of the plan's benefits;
- Send the RFP and accompanying participant data to all of the bidding insurance companies and answer their questions;
- Conduct the bidding process;
- Negotiate each insurance company to its lowest price;
- Make a written recommendation to the plan sponsor or fiduciary;
- Manage any post-sale flow of data from the plan to the selected insurance company;
- Assist the plan sponsor's legal team with the wording of the final annuity contract and certificates; and
- Oversee the process of delivery of the annuity contracts or certificates to plan participants and beneficiaries.

30. The bid process followed by most SPGA brokers is generally accomplished in two phases: a round of preliminary bidding, followed by a round of final bidding. The time between the preliminary and final bids may be a matter of days, weeks or months, depending on a number of factors including changes in plan data, interest rate fluctuations (investment yields, from which the carrier expects to pay the annuitants, are a function of the rates at which insurers expect to invest the plan's premium), and other vagaries of that specific purchase.

31. Most, if not all bids, are conducted through an open bid. In other words, after the broker receives each bidding insurer's preliminary bid, the broker will usually share the results of the preliminary bid with all the bidders. Thus, each insurance company knows not only its own bid, but the bid of each of its competitors *prior* to the final bid.

32. The final bid is usually set to occur on a specific date at a specific time. Those bidding insurance companies that remain in the bidding after the preliminary round are expected to provide their final bid by a predetermined deadline. Sometimes, but by no means the rule, the broker might attempt to further negotiate with the two or three lowest bidders after the final round to obtain the lowest price for the plan.

33. Consistent with the broker's role as the plan sponsor's independent expert or fiduciary hired to guide the plan sponsor through a sea of decisions, the plan expects, because the law requires, that the broker's duty is to act solely for the benefit of its principal – the plan sponsor.

34. Brokers are compensated for their services in one of two ways: (a) a fee negotiated between the plan sponsor and the broker, which is paid directly to the broker or (b) a commission agreed to by the plan sponsor and paid by the selected insurance company, which usually builds the commission into the final annuity premium.

V. THE HARTFORD'S SPGA BROKER COMPENSATION PACKAGE

35. Beginning at least as early as 1998, and continuing through 2004, The Hartford entered into written and verbal agreements with SPGA brokers, including Dietrich, Brentwood, BCG and USI, purportedly for the purpose of reimbursing those brokers for expenses they incurred in placing The Hartford's group annuity product with a particular plan. These agreements were formally referred to as Expense Reimbursement Agreements or Marketing Allowances (hereafter collectively referred to as "ERAs"). In addition, for certain times throughout the period covered by this Complaint, The Hartford also entered into a Consulting Agreement with Brentwood, which was supposed to reimburse Brentwood for certain specified services that broker was to provide for The Hartford. The compensation to be paid to Dietrich, Brentwood, BCG and USI pursuant to these agreements was in addition to, *not in lieu of*, the commissions or fees they received for their services to the plans.

A. Expense Reimbursement Agreements

36. The overall stated purpose of the ERA was to "reimburse [the broker] for certain reasonable administrative business expenses incurred by [broker] in supporting . . . the placement of single premium group annuity business with The Hartford." The reimbursable expenses included, but were not limited to, "training expenses, administrative support expenses, and miscellaneous selling expenses, not reimbursed from any other source."

37. Although the precise terms and conditions of the written ERA varied somewhat during the relevant time period, depending on the year and/or broker involved, the essential terms remained constant:

- The Hartford conditioned payment of the ERA on "evidence" that the expenses were incurred, thus requiring the broker to submit an expense account report or voucher detailing the expenses;

- Expenses were reimbursed up to, generally, 1% of the premium of a particular placement, although there were times when the amount was higher or lower;

- The business had to be "profitable", meaning supported by the final price;

- The Hartford had the right to audit the broker to verify the accuracy of expenses; and

- The Hartford required the broker to treat the ERA as confidential, unless disclosure was required by law, or if the broker deemed it "appropriate" to disclose to a prospective purchaser of SPGAs.

38. Additionally, the ERA contract generally was structured to hinge the amount of reimbursement the broker was eligible to receive on the broker's reaching certain "quarterly" and "annual" ERA reimbursement thresholds.

39. To qualify for a quarterly reimbursement, the broker had to meet predetermined quarterly premium thresholds. The threshold was established by The Hartford or, at times, through negotiation with the broker. For each stated quarterly premium threshold, there was a corresponding maximum expense reimbursement the broker would receive. For instance, under Dietrich's 2003 ERA, if Dietrich placed less than $5 million of premium in a three month period, its maximum quarterly reimbursement would be $37,500. On the other hand, under the same agreement, if Dietrich placed over $15 million in a quarter, its maximum quarterly reimbursement would be $375,000.

40. Under the "annual" feature of the ERA, a broker was entitled to qualify for an increased reimbursement if the broker's annual premium threshold exceeded certain predetermined thresholds. As an example, pursuant to Brentwood's April, 2002 ERA, if Brentwood placed more than $100 million in premium in a year, then Brentwood could earn up to an additional half a million dollars over and above its maximum quarterly ERA payments.

B. Consulting Agreements with Brentwood

41. Beginning at least as early as April, 2002, The Hartford also entered into a series of consulting agreements with Brentwood.

42. According to the written consulting agreement, the purpose of the contract was for Brentwood to "provide The Hartford with consulting and marketing advice with respect to the single premium group annuity business." Such advice included "information on industry best practices and trends", as well as "new product opportunities." The consulting agreement allowed for Brentwood to take on "[a]dditional specific consulting projects" with the concurrence of The Hartford.

43. In return for providing The Hartford with its consulting services, Brentwood was compensated $30,000 per quarter. Beginning some time around 2004, however, the consulting payments were restructured and Brentwood received $3,000 per month.

44. Brentwood's consulting services agreement was part of its ERA with The Hartford. Hence, while Brentwood was receiving a $30,000 per quarter consulting retainer from The Hartford, it still had the opportunity for an additional payout if its annual SPGA premium placed with The Hartford exceeded $100 million. Beginning in 2004, when Brentwood's consulting payment was lowered to $3,000 per month, the annual SPGA premium threshold required to trigger an additional payout was also lowered, such that Brentwood was eligible for an additional payout if its annual SPGA premium exceeded $20 million.

VI. HARTFORD'S ERAs AND CONSULTING AGREEMENTS ARE A SHAM

45. The Hartford's ERAs and consulting agreements were nothing more than an incentive compensation arrangement for brokers that established a pay for performance model.

As articulated in more detail below, The Hartford's definition of a broker's "performance" went well beyond bringing The Hartford a certain level of business.

A. The ERAs were Intended to Steer Business – "[H]ang a . . . carrot"

46. It cannot be denied that brokers incur expenses in marketing their services to prospective plans looking to purchase SPGAs, and in preparing RFPs, conducting bids and finalizing annuity contracts. Typical expenses are those associated with a broker's overhead, *i.e.*, salaries, marketing materials, telephone, facsimile, computer expenses, rent, etc. Additional expenses may include travel, entertainment and access to credit information services. These business expenses are usually and rightly viewed by the buyer or here – the plan sponsor -- as expenses covered under the fee paid by the plan or the commission paid by the insurance company. In other words, the fee or commission should not be just pure profit to the broker.

47. The Hartford's ERAs did not simply reimburse brokers for expenses; they reimbursed only those brokers that delivered a certain amount of business to The Hartford.

48. At its root, what The Hartford was "trying to accomplish" through the ERA was, as laid out in an internal email, to "change[] the buying habit of the intermediary . . . ." Or, even more succinct, the ERA "has to be used to stimulate business that we otherwise would not get."

49. An internal The Hartford document, labeled **"Confidential For Internal Discussion Only"** (emphasis in original), noted that among the "objectives" of the ERA was that it "encouraged [a] continual flow of business", and "encourages a large dollar volume of business".

50. To acquire this flow of business, The Hartford crafted a "production based" model for "distributors." Thus, the thresholds established for the brokers, whether quarterly or annual, were supposed to be a "stretch number" with a "big dollar [payment] associated with

that." The higher the threshold, the more business the broker needed to produce to receive its incentive payment.

51. In January, 2001, while discussing whether to enter into an ERA with USI, one of The Hartford's salesman explained to another of the company's executives that the "marketing allowance, as it was explained to me, is suppose [sic] to be a stretch in which 80-90% of the [brokers] would not reach it." The two employees of The Hartford then reviewed USI's 2000 production, roughly $11,500,000, and their expectation for USI's business in 2001 to "see if it makes sense to hang a $60 [thousand dollar] carrot." The Hartford described this arrangement in a proposal to USI of its "production based override program", offering USI a $60,000 payout in return for 2001 production of "$30 to $40 million".

52. In 2001, USI settled on $80,000 in calculated payments in return for $40 million in production. The "same deal applied for BCG, at least on paper."

53. In approaching these thresholds and payments, however, The Hartford reserved its "best deal for [its] best customer[s]" – Dietrich and Brentwood. Overall, as summarized by an executive of The Hartford in an internal email, "distribution partnerships" - - ERAs - - worked, as The Hartford believed it gained an "advantage" because the brokers "like our money." Or, as The Hartford salesman explained the ERA program to BCG, "[b]ottom line was, you sell business with [The Hartford] you will make your money."

B. The Brentwood Consulting Agreements – Nothing More than an Upfront ERA

54. Contrary to the purpose purported in its written consulting contract with Brentwood, The Hartford had little interest in the consulting and marketing services Brentwood agreed to provide. Rather, both The Hartford expected and Brentwood understood that The Hartford was secretly paying Brentwood in advance for future production.

55. Beginning some time in March, 2002, Brentwood's executives raised the idea of a consulting agreement with The Hartford's executives. At that time, revenues for Brentwood's brokerage business were lower than expected. As a result, Brentwood's principal, Neil Ronco, discussed the concept of an "upfront" quarterly payment from The Hartford that could be disguised as a "consulting" arrangement.

56. The concept was clearly explained in a March, 2002 email from The Hartford's salesman to his superiors: Brentwood "would be placed on a 12-month retainer for $120,000 ($10,000) . . . . If they do not produce the business, then we do not renew the next year or the difference is made up the following year." Moreover, clearly establishing that the payment was for production, not consulting or marketing advice, the email added, "[w]hen they produce over that amount, different projects can be added to account for the consulting fee in the additional amount."

57. In a series of meetings in March 2002, some by phone and some face-to-face, Brentwood and The Hartford executives discussed and eventually agreed to add the consulting agreement into the ERA that Brentwood had previously entered into with The Hartford. The concept ultimately agreed to by The Hartford was consistent with that first raised by Ronco: a $10,000 monthly payment to Brentwood and, as spelled out in the handwritten notes of one of The Hartford's salesmen intimately familiar with the consulting deal, "as the business comes in, increasing the quarterly consulting piece . . . ."

58. The first consulting agreement was executed in April, 2002. The $10,000 "consulting amounts" paid to Brentwood on a monthly basis were "built" into the SPGA premium The Hartford quoted for Brentwood's clients.

C. Labeling the ERA as Payment for "Expenses" was a Ruse

59. While The Hartford sought to justify its payments to brokers as reimbursement for their "expenses" incurred in placing SPGAs with The Hartford, in reality, The Hartford and the brokers understood that the payments were nothing more than "contingent commission payment[s]."

60. Within The Hartford, the payments were referred to in various ways, *i.e.*, a "commission override", a "production based override", a "finder's fee" or, as a senior executive of The Hartford who was responsible for overseeing the SPGA business noted in an email, even a "'bonus' (or ERA or whatever we call it)."

61. The Hartford knew, or at the very least was deliberately indifferent to the fact, that the expenses the brokers allegedly incurred, and the vouchers the brokers were to submit as "evidence" of these expenses, were nothing more than pieces of paper The Hartford could place in its files to cover for the millions of dollars it paid out to the brokers.

62. The Hartford's disinterest in assuring whether, in fact, the brokers incurred the expenses claimed, is evidenced by the fact that, even though The Hartford *never* conducted an audit during the entire time period the ERAs were in place, The Hartford paid out millions of dollars in payments to Dietrich, Brentwood and USI during the relevant period, and had the right to inspect and audit the brokers' expense files to verify the expenses.

D. The Hartford Paid the Brokers for Additional Competitive Bidding Information

63. From the inception of the scheme, The Hartford intended to use the ERAs and consulting agreement to gain a competitive advantage over its competitors in the bidding process for SPGAs.

64. The Hartford's strategy to achieve this advantage was unmistakably identified in a September 2003 internal email by one of The Hartford's salesmen, who informed several of its executives, including the Vice President of Product Management, that the "goals of the ERA" were "to receive a favorable status in quoting activity, including but not limited to receiving favorable treatment in the bidding process (last looks), being able to achieve expected/attractive [profit] margins . . . and value added actions by the intermediary."

65. The Hartford was able to parlay its favorable treatment, its access to information that its competitors were denied, and its ability in many instances to get the last bid, to formulate quotes that gave it the best chance of winning, but not necessarily the best price for the retirement plan.

66. Throughout much of the relevant period The Hartford maintained an SPGA "tracking database" that logged The Hartford's preliminary quotes and winning bids as well as those of its competitors. Armed with the information it compiled, The Hartford was able to estimate the "likelihood" of winning on a particular SPGA contract for which it was bidding.

67. This tracking database enabled The Hartford's salesmen to prepare a matrix that allowed the company to gauge how it should revise its final quote in order to have the best prospect of winning the contract. A column of the matrix, headed "Lowest Price Carrier," identified the carriers that The Hartford was competing with for a particular SPGA. For example, one matrix identified: Principal, United of Omaha, Travelers Insurance Company, CNA, AIG and John Hancock. The Hartford then rated its "likelihood" of winning a contract if its quote were within .5%, 1% or greater than 1% of each carrier's quote. The Hartford estimated its prospects of winning based upon the following scale: "Very Low", "Low", "50/50", "High" or "Very High".

68. Thus, as long as The Hartford knew who it was competing with for a particular contract, and as long as it knew the preliminary or final quotes of its competitors – *both pieces of information The Hartford received from the brokers* -- it could use the matrix to achieve the optimal final bid. For instance, if United of Omaha were the lowest bid, The Hartford could assign itself a "Very High" likelihood of winning – as long as it was within, but not necessarily lower than, .5% of United of Omaha's bid. As a further illustration, The Hartford had only a "50/50" chance of winning if it were within less than .5% of AIG; meaning The Hartford may have to underbid AIG to increase its prospects of winning. And, if The Hartford's bid were around 1% higher than Principal's bid, it had a "Low" likelihood of winning the bid, but could raise its chances to "High" if it could get within .5% of Principal's lower bid.

69. By exploiting its ability to get inside information and last looks on the bidding for SPGA contracts - - *information The Hartford was paying the brokers for under the ERAs* - - The Hartford greatly improved its odds of winning contracts.

70. This competitive advantage did not necessarily inure to the benefit of the plan, however, as The Hartford knew when it had to underbid its competitor to win, *i.e.,* AIG, or when it just needed to be slightly above the lowest bidder and still have a "Very High" likelihood of winning, *i.e.*, United of Omaha or CNA.

71. Internal emails establish that the brokers delivered on their obligation to provide The Hartford with information that would give it a competitive advantage. For example, even in one instance where The Hartford lost a $57 million annuity contract to Principal, The Hartford's executives acknowledged that "[w]e were getting additional feedback from [a BCG broker], as it was communicated to him . . . ." The Hartford's plan to get the last look was evidently thwarted because the other insurance companies sent their bids to the plan's actuary rather then the BCG

broker, as the email noted. Nevertheless the BCG broker "went over and above getting us carrier feedback, which was of value in the process . . . especially since detailed feedback wasn't being provided to the carriers (other than us)."

72. Another illustration relates to a $291,350,000 million SPGA contract The Hartford won with the PricewaterhouseCoopers ("PwC"). In that deal, the broker, Brentwood, "added some value by keeping The Hartford in the bid" after PwC questioned a particular term of The Hartford's proposal. Consistent with the "goals of the ERA" though, Brentwood gave PwC information "and The Hartford was able to continue in the bidding process. Also, Brentwood did provide The Hartford with the details of the bidding process and competitors' bids on [the] final day." After winning the contract, The Hartford gave Brentwood a $100,000 ERA payment.

VII. THE ERAs AND CONSULTING AGREEMENTS WERE SECRET

73. The existence of the ERA and consulting agreements was a closely guarded secret, both within The Hartford and without.

74. The Hartford's executives and employees within its Institutional Investment Products ("IIP") division (the unit where SPGAs were priced and sold) knew that the ERAs and consulting agreements had to be concealed from others in the company, as well as from the company's competitors, certain brokers and, especially, its customers.

75. In one January, 2001 internal email, The Hartford's salesman complained that a lower level employee responsible for pricing an upcoming SPGA proposal sent an email referring to ERAs to a number of company personnel. Writing to other IIP salesmen, the salesman asked "what is [she] doing sending an email like this to a large group? I have made

mistakes and sent things I shouldn't have, but I was under the impression that ERA's are not in writing and is [sic] kept within a small circle."

76. Two days later, the same salesman sent another email to IIP sales personnel expressing his concern about the need to maintain confidentiality as follows:

> I'm not worried about this [the existence of ERAs] getting out. If there is anyone that we feel could leak, then we shouldn't have this setup at all for them. I think that is the whole point, if they talk, the deal is terminated. We just have to reiterate that over and over to the selected brokers. If we have any doubts about someone, say something now.

77. The Hartford also took steps to ensure that its customers -- the plan sponsors and fiduciaries, never learned about the ERAs and consulting agreements, or that The Hartford was secretly paying the plan's broker.

A. The Hartford Failed to Disclose the ERAs and Consulting Agreements

78. Upon receiving an RFP for an SPGA contract, The Hartford initially would send it to the Terminal Funding unit of the IIP. There, pricing specialists reviewed the data and other terms in the RFP, and prepared a preliminary quote, which was then sent via an interoffice memorandum to IIP's sales and marketing department. The internal quote set forth the plan name, broker, amount of premium tax, commission, ERA payment and initial quote.

79. Thereafter, The Hartford's sales and marketing staff would prepare a formal proposal to be provided to the broker and, ultimately, the plan sponsor or fiduciary. This formal proposal, which could be either preliminary or final in nature, disclosed detailed information on The Hartford, the benefits to be provided, the quoted premium, and the date when the quote would expire. In addition, the formal quote specifically identified the amount of any commission and premium tax. Omitted from the formal proposal was the ERA payment attributable to the contract. For example, in October 31, 2002, The Hartford sent the Community Hospital of Los

Gatos, California ("Los Gatos") a proposal that contained a final quote describing Brentwood's commission as .15% of the $3,645,999 premium, or $5,469. The proposal failed to disclose to Los Gatos hospital that The Hartford also was making a 1% ERA payment of $36,459 to Brentwood for the business, which was included in the premium.

80. The "commission" quote contained in the proposal is an affirmative misrepresentation in that it purports to represent the entirety of the commission paid the broker when, in fact, it only represents a portion of the commission. The Hartford knew full well that its secret ERA payments were commissions because it treated these payments as commissions in its own GAAP accounting.

81. Pricing an SPGA requires complex analysis of current and expected interest rates on the portfolio of assets supporting the annuity. Because of the interest rate-sensitive nature of the investment and short term volatility of interest rates, when The Hartford won a bid it required the plan to "lock-in" the premium (and thus the interest rate) by depositing the premium with The Hartford before the final annuity contract could be prepared, which could take several days or several weeks.

82. Accordingly, in order to secure the plan's commitment to funding the annuity premium, The Hartford sent the plan an "Application for Group Annuity Contract." The document, which was to be signed by the broker and the authorized representative of the plan, disclosed the "main terms" of the contract, including the commission, if any. In no instance during the time covered by this Complaint did The Hartford *ever* disclose the amount of the ERA on the application or include the ERA as part of the "commission", even though The Hartford's IIP accounted for the ERAs as "commissions" on its internal financial reporting forms.

83. The Hartford's misrepresentations and omissions with respect to the true nature of the compensation it paid its brokers were material. In many instances, the disclosed commission was 1% of the premium, and the ERA was also 1%. Thus, in such instances, The Hartford disclosed to the plan only half of what The Hartford was actually paying the broker, a cost ultimately borne by the plan. On other occasions the commission was less then 1%, or there was no commission because the plan paid the broker a direct fee; so in these circumstances the undisclosed ERA payment exceeded the amount The Hartford's false disclosure caused the plan to understand the broker was receiving as compensation.

84. In addition to failing to disclose the ERA and consulting payments in either the formal proposals or the group annuity applications, The Hartford's failure to disclose these payments to certain plan administrators caused these plans to file inaccurate information on federal forms they are required to file with the DOL and the Internal Revenue Service.

85. Insurance companies that provide products or services to employee benefit plans governed by ERISA have a legal obligation to disclose to plan administrators information needed to prepare the Annual Return/Report of Employee Benefit Plan (Form 5500). In this regard, The Hartford, like any other insurance company, is required to disclose fees and commissions paid to brokers in connection with products it provides to ERISA plans. This information is then reported by plan administrators on Schedule A to Form 5500. DOL advisory opinions issued in 1986 and 2005 reconfirm for insurers that they must disclose on Schedule A commissions and fees "directly and indirectly attributable to a contract between a plan and insurance company." This plainly includes ERA payments or "consulting fees."

86. On at least five occasions during the period covered by this Complaint, plan sponsors asked The Hartford for such information for the Form 5500. In each instance The

Hartford disclosed only the commissions attributable to the annuity contract. Not once did The Hartford disclose the ERA amounts it had paid the brokers, even though those payments were directly attributable to each annuity contract.

87. Yet, the plans unknowingly were subsidizing the ERA and consulting payments as, in almost every instance, The Hartford built the ERA and consulting payments into the premiums it charged.

88. For example, in October 2001, Dietrich acted as broker for an SPGA purchase by Crown Vantage, Inc. Under the terms of the agreement between Crown Vantage, Inc. and Dietrich, the broker received a $168,287 commission. In addition, unknown to Crown Vantage, Inc., three months after The Hartford was awarded the contract the insurer paid Dietrich an additional undisclosed $841,437.94. The additional payment was built into the premium without Crown Vantage, Inc.'s knowledge.

89. Similarly, when Brentwood brokered the Willbros U.S.A., Inc. Pension Plan termination, The Hartford, as the winning carrier, paid Brentwood a duly disclosed $21,368 commission, plus an undisclosed ERA payment of $28,492, which the client nonetheless paid for because it was secretly priced into the premium.

B. The Hartford Knew that Brokers Failed to Disclose the ERAs to the Plans

90. The Hartford knew, or should have known, that the brokers failed to disclose to their own clients the existence of ERAs, consulting agreements, and the payments the brokers received thereunder.

91. The Hartford's written ERAs and consulting agreements contained an express confidentiality clause that significantly limited the brokers' ability to disclose the agreements to third parties.

92. Further, The Hartford knew, or should have known, that the brokers failed to disclose the payments received pursuant to ERAs and consulting agreements, because The Hartford itself omitted this information from its own written communications with plan sponsors and fiduciaries, thereby greatly facilitating concealment of this material fact.

93. Communications between the brokers and The Hartford during the relevant period confirm The Hartford's knowledge that the brokers were not disclosing to their clients even the existence of the ERAs and consulting agreements, much less the payments the brokers were receiving under those agreements. On at least one occasion, The Hartford was expressly asked by Brentwood not to disclose the ERA if asked by GE Consumer Finance, Brentwood's client. On several other occasions, USI's employees told The Hartford's SPGA sales team in emails that its compensation should total 3%: "The client will see the 2% in the proposal, USI should receive the other 1% as an ERA."

94. The Hartford's knowledge is concisely demonstrated in an internal document prepared by IIP personnel within two weeks of the New York Attorney General's October, 2004 lawsuit against Marsh & McLennan ("MMC"). The charges alleged in that complaint included allegations that MMC engaged in bid rigging and steering of contracts for property and casualty insurance to preferred insurance companies in return for undisclosed payments from those insurers, including The Hartford, specifically named in the complaint as a co-conspirator.

95. The internal review commenced by The Hartford's IIP as a result of the MMC complaint acknowledged that "we have marketing and expense reimbursement agreements with some distributors . . . ERA disclosure is left to brokers . . . [although] [w]e do not believe they routinely disclose existence of ERAs."

VIII. THE HARTFORD HAS BOUGHT THE LOYALTY OF THE BROKERS

A. The Brokers are Fiduciaries to the Plans

96. In purchasing an SPGA contract for a retirement plan, the plan sponsor or fiduciary exercises the heavy responsibility of investing enormous assets with an insurance company that will provide long-term financial security to the plan's beneficiaries.

97. Plan sponsors and fiduciaries enlisted and engaged the SPGA brokers to assist in the purchase of this investment. Indeed, brokers are retained to provide unbiased, competent and independent advice on the selection of an insurer, to negotiate the SPGA premium to the lowest price available, and to provide each plan sponsor with a free and frank disclosure of all the relevant information necessary to allow the plan sponsor to make the best purchase decision for its beneficiaries. Not surprisingly, the brokers, Dietrich, Brentwood, BCG and USI all have marketed themselves, in essence, as the entities that can provide what the plans essentially lack: the special knowledge, experience, resources and skill to make correct and appropriate choices in purchasing SPGAs.

98. The fiduciary relationship between the SPGA brokers and their clients requires each broker to act solely for the benefit of the plan it is representing and not for itself or some other third party.

99. Communications and agreements between plans and brokers underscore the fiduciary nature of the relationship:

- In a June, 2000 letter to Mount Sinai Medical Center related to its purchase of an SPGA, Brentwood referred to a DOL bulletin advising plan fiduciaries that unless they possess the "necessary expertise" to evaluate critical annuity selection factors, the fiduciary needs to "obtain the advice of a qualified independent expert." Brentwood went on to state that, "[i]n our opinion, by following [Brentwood's recommendation] Mt. Sinai has satisfied this requirement."

- In a June, 2002 Annuity Service Proposal prepared for the American Forest & Paper Association ("AF&PA"), Dietrich "acknowledged" and "accepted" its "role as an independent fiduciary" to the AF&PA's plan.

- In late 2004, BCG, in response to a number of questions posed by the Trustees of Hillcrest Medical Nursing Institute, which was in the process of retaining a broker for the purchase of an SPGA for its plan, stated that the "DOL does not require plan fiduciaries to hire independent experts to assist [in a plan purchase], but it is strongly recommended that they do." BCG went on to emphasize that it "realizes that we are the experts . . . ."

- In a November, 2000 letter to the Rogers, Lunt & Bowlen Company Employees' Pension Plan, USI described its role in advising the plan, including its analysis of underwriting requirements, financial reports, contract specifications from each bidding insurer and assisting the plan in making "an informed decision."

100. The Hartford also understands that its SPGA customers should and often do retain the services of a broker with specific knowledge of these investments and the process required to complete the transaction. In fact, The Hartford's internet website for terminal funding investments still recognizes that "a professional knowledgeable about the [annuity purchase process] is brought in and may assist the plan sponsor in making required filings, reviewing the plan's provisions and liabilities and articulating needed data in order to obtain initial bids from insurers." The site goes on to say that once final bids are received from insurers, they are "then analyzed and reviewed by the plan sponsor with the assistance of a broker/consultant."

101. In short, at all times relevant to this Complaint, The Hartford knew that Dietrich, Brentwood, BCG and USI, by virtue of their role in a plan's selection and purchase of an SPGA, owed a fiduciary duty to the plans.

B. ERAs and Consulting Agreements Violated the Brokers' Fiduciary Duty

102. The Hartford's ERAs and consulting agreements saddled the brokers with a conflict of interest that induced the brokers to breach their fiduciary duty and place the interests of The Hartford ahead of their clients' interests.

103. In many cases, the secret payments The Hartford has made to a broker are equal to or larger than (a) the fees paid to the broker by the plan or (b) the disclosed commission paid

to the broker by The Hartford. Additional secret payments were contingent on the brokers meeting predetermined premium volume thresholds; meaning the brokers could only receive payment when The Hartford was the successful bidder.

104. For instance, in November 2000, Dietrich acted as the broker for the Marconi U.S.A. Employees' Retirement Plan, a $2.5 million SPGA contract. In return for its services, Dietrich received a commission of $25,486; Dietrich was also paid an undisclosed ERA of $25,486.75 for placing the contract with The Hartford.

105. In October 2001, Brentwood acted as the broker for the Manufacturers Bank Cash Balance Pension Plan termination, a $2.4 million SPGA contract. In return for its services to the plan, Brentwood received a $15,000 fee directly from Manufacturers Bank. Unbeknownst to the plan, however, and because The Hartford was the winning bidder, Brentwood also received a concealed $12,362.66 ERA payment for recommending The Hartford, even though The Hartford was not the low bidder.

106. The allure of the ERA payment is also illustrated by the handling of the Wilson Industries, Inc. Pension Plan in April, 2000. As payment for its brokerage services to the plan, Brentwood received a flat $10,000 commission. In addition to the commission, however, and because The Hartford was the successful bidder, it provided Brentwood an additional undisclosed $13,570 ERA payment. The Hartford's final bid exceeded that of the lowest bidder by $41,000.

107. Many of the written agreements between plan sponsors and brokers required the broker to negotiate with the insurers to obtain the most "aggressive quote" possible from each bidder. Even if there was no written agreement, the plans had every reason to expect their brokers would seek the lowest price possible.

108. Holding out the prospect of lucrative extra compensation for brokers, The Hartford's ERAs and consulting agreements were designed specifically to discourage the brokers from negotiating too vigorously on behalf of their plan sponsor clients.

109. The Hartford's ERA and consulting agreements conditioned the contemplated payments on the "quality" of the SPGA business. If The Hartford, "in its sole discretion", determined that the business failed to meet its expectations, The Hartford could reduce the amount of the extra payment, or eliminate it for that particular contract.

110. By "quality" business, The Hartford intended that the ultimate premium - - including any commission and ERA payment - - must leave The Hartford with an adequate profit margin. As explained in an internal email from IIP's Vice President of Product Management, brokers would "only be paid [an ERA] as we project profitability above minimum return thresholds, currently 13% return on equity." Downward pressure on The Hartford's premium quote correspondingly jeopardized The Hartford's ability to meet its return on equity goals.

111. As a result, brokers understood, because The Hartford told them, that if the final premium were too low, then The Hartford would reduce or eliminate the additional undisclosed reimbursement. For example, when The Hartford's Vice President of Product Management learned that Brentwood intended to conduct an "auction" on the PwC placement, he instructed his salesman to "make sure [Brentwood's principal] understands that his much coveted pencil sharpening exercise will necessarily eliminate any margin for an ERA to Brentwood." Accordingly, brokers were actively discouraged from attempting to extract the most "aggressive quote" from The Hartford.

112. At its core, the ERA involved The Hartford secretly paying the brokers to do what was necessary to steer the SPGA business to The Hartford. As an executive of The Hartford

succinctly put it, "to change[] the buying habit of the intermediary . . . that is what we are trying to accomplish."

113. Through the ERA vehicle, The Hartford expected that brokers would, for example, disparage the quality of competing bidders' investments. With an ERA in place, summarized The Hartford's salesman, "[USI's Director of Retirement Services] has no objection placing $45-60 million of [group annuity business] with us if we are in the ballpark which will vary by client but my guess is that it is within 1% or less of Principal. . . . [USI] will show us in any way we desire and has focused on High risk assets in Principal's [annuities] when we are competing."

114. As an internal The Hartford email noted, the company hoped that brokers "present The Hartford in a favorable position that corresponds with the expectations of the ERA agreement." The email further remarked that Brentwood "provided value" on the "Lindberg and the California School systems" SPGA contracts. Accordingly, for Lindberg, Brentwood received an undisclosed $5,596 ERA payment; for the California School Association, an $11,093 ERA payment.

115. If the broker with an ERA could avoid seeking competing bids altogether and place the contract with The Hartford, then it would do so. For example, when Intermagnetics General Corporation ("Intermagnetics") sought a group annuity contract for its active employees, Dietrich hoped to "avoid having to shop the case and simply put it with The Hartford. . . . We will obviously recommend using The Hartford and are not getting other quotes unless instructed to do so . . . ." Dietrich eventually received an undisclosed $49,410 ERA payment for placing Intermagnetics with The Hartford.

IX. <u>THE HARTFORD'S SCHEME INJURED CONSUMERS</u>

116. From sometime beginning in 1998, if not earlier, through December, 2004, The Hartford engaged in unfair and deceptive conduct and made material misrepresentations on over 100 SPGA purchases by plan sponsors and fiduciaries.

117. The premiums on these SPGA contracts totaled close to $800 million and The Hartford paid approximately $4 million in secret ERA and consulting payments to Dietrich, Brentwood and USI.

118. The illegal, unfair and deceptive conduct occurred within Connecticut and elsewhere, and harmed Connecticut consumers and consumers in many other states. The following examples, illustrate how consumers were harmed.

A. The Montgomery Ward Retirement Plans

119. In September 2004, Montgomery Ward LLC hired Brentwood as its broker for the purchase of an SPGA for two plans: the Ward's Retirement Plan and the Ward's Supplemental Executive Retirement Plan (hereinafter "MW"). During this time MW was in the process of liquidating under a Chapter 11 bankruptcy proceeding. Under the terms of a written agreement between MW and Brentwood, the broker agreed to consult with each plan, prepare an RFP, "[n]egotiate each insurance company to its lowest price", make a written recommendation to the plan and provide other administrative services. Moreover, Brentwood specifically acknowledged that it was MW's "fiduciary" in the transaction and that it would "discharge its duties . . . solely in the interest of the participants of the Plans and their beneficiaries . . . ." As MW's broker, Brentwood agreed that it would receive a $20,000 fee for its services directly from MW.

120. Although The Hartford was the third lowest bidder after the preliminary round, The Hartford's final bid of $5,499,000 turned out to be the lowest bid, besting Transamerica

Occidental Life Insurance Company's bid by $11,000. As a result, Brentwood recommended that MW purchase the SPGA from The Hartford.

121. Shortly after the conclusion of the final bid, sometime around September 24, 2004, The Hartford sent the application for annuity to GE Consumer Finance which, during the bankruptcy proceeding, assumed the liability for payments to the plans. As a result, GE Consumer Finance was the contract holder for both annuities. GE Consumer Finance is located in Stamford, Connecticut.

122. Although the application indicated the premium, the SPGA contract number, and the fact that no commission was paid (because MW paid Brentwood a $20,000 fee), The Hartford nevertheless failed to disclose to MW or GE Consumer Finance, that while the premium did not include a commission, it did include an additional $35,190 ERA payment that was to be paid to Brentwood for landing the MW contract for The Hartford.

123. On October 18, 2004, four days after the filing of the New York Attorney General's action against MMC, a representative of GE Consumer Finance emailed Ronco, Brentwood's principal, asking "[i]n light of the story in today's Wall Street Journal [about the MMC lawsuit], I would like to know if Brentwood received contingent commissions on the purchase of the [MW] annuities." Several hours later, Ronco replied that "[w]e did not . . . ."

124. Within hours of the representative's query to Ronco, Ronco called an executive at The Hartford and notified him that Brentwood was canceling its ERA and consulting agreement and "no further payments" to Brentwood should be made. Ronco also requested that if representatives from GE Consumer Finance called asking whether The Hartford paid contingent commissions to Brentwood, that The Hartford would deny making such payments.

125. On October 20, 2004, in response to Ronco's email denying that Brentwood received contingent compensation for the MW SPGA contract, GE Consumer Finance's representative commented to Ronco that "I bet you are glad you didn't play those games." Shortly thereafter, Ronco responded, "It is so ugly, all of us have to deal with this now. Oh well, such is life."

126. The Hartford and Brentwood both failed to disclose to GE Consumer Finance and the MW plan that, while The Hartford eventually did not pay Brentwood its ERA payment for the MW SPGA contract, the ERA payment had already been built into the final premium. Thus, unknown to GE Consumer Finance and the MW plan, the premium included an extra $35,190 that had been intended as additional compensation to Brentwood. The money was never paid, however, because Brentwood terminated the contract.

127. The Hartford did not disclose to GE Consumer Finance or MW that the final $5,499,000 premium had been increased to account for the ERA. Since The Hartford made no payment to Brentwood, The Hartford simply kept the additional $35,190.

B. Pension Plan of Memorial Hospital – West Volusia, Inc.

128. In December 2003, Memorial Hospital – West Volusia, Inc., the plan sponsor and administrator for the Pension Plan of Memorial Hospital – West Volusia, Inc., (hereinafter collectively referred to as "West Volusia") entered into an agreement with Dietrich to provide consulting services in connection with its purchase of an SPGA for the pension plan. At the time, West Volusia was located in Winter Park, Florida.

129. Under its agreement with West Volusia, Dietrich agreed to consult with the plan, prepare the RFP, "[n]egotiate each insurance company to its lowest price", make a written recommendation to the plan and provide other administrative services. In addition, Dietrich

specifically acknowledged that it was West Volusia's fiduciary for the transaction and warranted that "it has not and will not accept any remuneration, compensation, or other form of consideration from any insurance company . . . attempting to exert influence with respect to any asset of the Plan." For its services, Dietrich agreed to accept a direct payment of $50,000 from West Volusia.

130. Subsequent to the preliminary bidding for the contract, on December 18, 2003, a Dietrich Vice President sent an email to The Hartford's salesman informing him that the final bidding would take place the next day and providing him with "some competitive feedback for your information[]." The Dietrich representative then disclosed bidding information from four carriers.

131. The Hartford ultimately prevailed in the bidding, winning the bid by bidding slightly over $5,000 less than the next lowest bidder. The final premium was $26,102,374.

132. On December 19, 2003 a West Volusia representative signed the application for annuity sent by The Hartford. The application identified the final premium, the contract number and other pertinent information, including the fact that no commission was paid. What The Hartford failed to disclose to West Volusia on the application, and what in fact has never been disclosed to West Volusia by The Hartford or Dietrich, was that the final premium included an additional $522,047, which The Hartford secretly paid Dietrich in return for sending the business to The Hartford.

C. Tenet Health Systems

133. In December 2000, the plan administrator for the American Medical International, Inc. Pension Plan ("AMI") engaged Brentwood to act as its broker for the purchase of several

SPGA contracts that were to be owned by AMI and Tenet Health Systems, which was formed after a merger between AMI and National Medical Enterprises.

134. Brentwood and AMI agreed that Brentwood's commission for the annuity purchase would be 15 basis points, or .15% of the premium. Brentwood further agreed that its commission "will be based on the lowest premium [offered by any bidder] to insure an arms-length transaction."

135. On December 14, 2000, Brentwood received quotes from three insurance companies, including Principal ($209,360,000) and The Hartford ($212,484,240). Although Principal was the lowest bidder, Brentwood recommended that AMI split the contract between The Hartford and Principal. That same day, The Hartford sent AMI two annuity applications, each of which identified the final premium, number of vested and active employees and beneficiaries, and other important terms of the contract, including the commission at "15 bps" (.15%), amounting to approximately $155,852. However, The Hartford failed to disclose to AMI, and Brentwood failed to disclose to its client, that The Hartford was paying Brentwood an additional undisclosed ERA sum of $238,983 for delivering the business to The Hartford. Yet, in a January 31, 2001 letter to Tenet Health Systems summarizing the purchase, Brentwood stated that by following its "recommendation" to purchase an SPGA contract from The Hartford, Tenet Health Systems satisfied the DOL guidelines requiring the plan to obtain the advice "of a qualified independent expert."

136. Not only did The Hartford fail to disclose this information to AMI at the time it entered into the transaction, when AMI, in August 2002, requested information on commissions and fees paid in order to satisfy the DOL's request that AMI submit a Form 5500 Schedule A,

The Hartford dutifully reported the commissions paid to Brentwood but specifically ignored the ERA amount. For a second time The Hartford failed to disclose the ERA payments to AMI.

D. American Forest & Paper Association

137. On September 24, 2002, Dietrich entered into an agreement with AF&PA to act as its broker in connection with the purchase of an SPGA contract for AF&PA's retirement plan. Under the agreement, Dietrich agreed to provide a myriad of administrative services to the plan and aggressively negotiate with the insurers, acknowledging that, in recommending an appropriate insurer, Dietrich was acting as a "co-fiduciary" to the plan.

138. In late November, 2002, Dietrich informed AF&PA that the Travelers Insurance Company's ("Travelers") "best and final offer" was $1,089,286 and The Hartford's bid was $1,093,835. Despite Travelers' lower bid, however, Dietrich claimed to AF&PA not to have "good experience" with the company and instead recommended that AF&PA select The Hartford.

139. On November 26, 2002, both Dietrich and AF&PA executed The Hartford's application for annuity. The application identified the final premium, the number of retirees covered by the annuity and a 2% commission totaling $21,876.70, but failed to disclose to AF&PA that the final premium included an additional $10,938 representing the amount of the concealed ERA payment The Hartford gave Dietrich for the services the broker provided to The Hartford in connection with the sale.

140. In addition to failing to disclose the ERA payment on the application for annuity, The Hartford also caused AF&PA to file an inaccurate Form 5500 Schedule A for the plan year 2002. AF&PA's filing identified the 2% commission paid for the SPGA contract, but omitted

any reference to the ERA payment in either the “commission” portion of the form or the “fees paid” portion.

E. Benetton Sportsystem U.S.A., Inc.

141. Beginning in the spring of 2003, Benetton Sportsystem U.S.A., Inc. (“Benetton”) began the search for a broker to assist its purchase of an SPGA for its retirement plan. On May 21, 2003, Benetton executives met with Dietrich representatives, including Dietrich’s President, to discuss the SPGA purchase procedure and the services Dietrich could provide the plan. During the discussion, Dietrich informed Benetton that it worked on a commission basis and represented that the usual commission was 1-2% of the purchase price. Benetton eventually hired Dietrich as its broker for the transaction.

142. The final bidding for the Benetton retirement plan’s SPGA took place on December 29, 2003. Dietrich obtained six quotes, the lowest being United of Omaha at $8,156,334.72, with The Hartford’s quote being next lowest at $8,160,621. Prior to the final bidding, on December 22, 2003, a Dietrich Vice President emailed The Hartford’s salesman with the bids of The Hartford’s five competitors for the Benetton contract.

143. At a December 29th meeting with Benetton, Dietrich recommended that the plan select The Hartford, despite its higher price. Dietrich reiterated that the fee for its services to the plan would be a 2% commission included in the SPGA premium. The commission paid to Dietrich was $163,212.42.

144. On that same day and in light of Dietrich’s advice, Benetton committed to the SPGA purchase from The Hartford by executing the application for annuity. The application identified important terms of the purchase, including the number of vested and active employees covered, the monthly benefit each would receive, the final premium and the 2% commission, but

failed to disclose that in addition to the commission, The Hartford was paying Dietrich $122,409 (1.5%) for Dietrich's services to The Hartford in connection with the sale. Thus, the total cost to the plan to compensate Dietrich was not 2%, as represented by both The Hartford and Dietrich, but rather 3.5%. An internal The Hartford pricing document confirms that the final premium guaranteed The Hartford a 13% return on equity on the sale.

F. Mount Sinai Medical Center of Florida

145. Mount Sinai Medical Center of Florida ("Mt. Sinai") selected Brentwood as its broker to assist it with the termination of the hospital's retirement plan and the subsequent purchase of an SPGA. On May 30, 2000, The Hartford's pricing unit forwarded an internal memorandum to its sales staff that indicated the annuity quote included a 2% commission and a 1% ERA.

146. For Mt. Sinai, The Hartford prepared a written detailed proposal that disclosed a "purchase price" of $780,000, "a 2% commission and no state premium tax."

147. The final bid occurred on May 30, 2000. The lowest quote of $773,660 was provided by John Hancock Mutual Life Insurance Company ("John Hancock"); The Hartford submitted the next lowest quote, $780,000.

148. In a letter from Brentwood to Mt. Sinai dated June 8, 2000, Brentwood's Ronco summarized the bidding and selection process and noted that Brentwood, acting as Mt. Sinai's "independent expert," recommended The Hartford "even though they did not have the lowest price." Brentwood went on to say that its "decision" was based on its belief that The Hartford was the "safest available annuity."

149. Both Brentwood and The Hartford failed to disclose that Brentwood stood to earn an additional $7,800 – i.e., 50% more compensation -- if Mt. Sinai purchased the SPGA from

The Hartford, instead of John Hancock or any other bidder. This additional compensation was priced into the final premium and thus ultimately was paid by Mt. Sinai.

G. Crown Vantage, Inc.

150. Crown Vantage, Inc. ("Crown") was the former sponsor of a defined benefit pension plan that terminated in the summer of 2001 (Crown filed for Chapter 11 bankruptcy in March, 2000). At the time, Crown was headquartered in Ohio with manufacturing plants located throughout the country, including New Hampshire, Michigan, Massachusetts and Virginia.

151. In July 2001, Crown engaged Dietrich to provide placement services for Crown's purchase of an SPGA. Dietrich and Crown agreed that the successful insurer would pay the broker a commission on a scale that ranged from .15% - .25%, depending on the size of the purchase. Among the services Dietrich agreed to perform for Crown pursuant to a written agreement were: (a) interpret the plan specifications and prepare the RFP, (b) work with Crown in determining credit ratings requirements, (c) conduct the bidding "to ensure aggressive quotes" and, (d) negotiate "the most aggressive quote possible from each company."

152. The final three bidders for the Crown placement were: Metropolitan Life Insurance Company ($81,545,000), Principal ($81,625,000) and The Hartford ($84,143,794). On or about October 10, 2001, Crown purchased an SPGA from The Hartford, the third lowest bidder. That same day, both Dietrich and Crown executed The Hartford's application for annuity, which identified the main terms of the purchase and disclosed a commission of .20%, or $168,287.58. The Hartford's internal pricing documents estimated that its return on equity on the placement would amount to 13.04%.

153. On or about January 28, 2002, Dietrich submitted an "SPGA Expense Voucher" to The Hartford which detailed the "business expenses" Dietrich purportedly had incurred in

connection with the Crown placement. The expenses claimed on the voucher totaled $841,437.94, and included $244,017 for "Document Interpretation and Preparation of Bid Specifications", "Payroll Expenses" of $151,458.83, and $126,215.69 for "Credit Research & Documentation". These "services" and others itemized on the voucher, were essentially the same services that Dietrich had agreed to provide to Crown in return for the agreed-upon commission. Moreover, the entire $841,437.94, which The Hartford secretly paid Dietrich for its winning the Crown placement, was priced into the final premium. Thus, without knowing it, Crown paid twice for the same services.

H. Research Corporation

154. On or about October, 2002, Research Corporation ("Research"), located in Tucson, Arizona, began the search for a broker to use in connection with the termination of its defined benefit pension plan. In a letter to Brentwood's Ronco, Research asked a series of questions to assist the company in choosing an appropriate broker. Among the questions posed to Brentwood was a description of "the way you are compensated" for the services Brentwood would provide to Research.

155. In his October 22, 2002 written response to Research, Ronco promoted his company as the "Brentwood Difference" and represented that Brentwood would "aggressively negotiate the lowest possible price" and fulfill its "fiduciary obligation" by "choosing the annuity provider that best serves the interests of the participants and beneficiaries." In response to Research's request for information on the manner in which Brentwood is compensated, Ronco indicated that "[w]e can be compensated in one of two ways, a direct fee from [Research] or a commission from the winning carrier." Ronco went on to recommend a "flat fee of $18,000",

which could be paid directly by Research or the winning carrier "but obviously not from both." Research and Brentwood eventually agreed to a $12,500 commission from the winning carrier.

156. The final bidding took place on or about April 9, 2003, with The Hartford providing the lowest bid of $1,631,447. As a result, Brentwood recommended that Research award the contract to The Hartford. Subsequent to the award, Brentwood's principal, Scott Harbin, and Research's representative executed The Hartford's application for annuity. The application disclosed the final premium, important dates, the number of vested and active beneficiaries and the commission of $12,500. Neither The Hartford nor Brentwood ever disclosed to Research that The Hartford also paid Brentwood an additional $16,314 for its services to The Hartford under the ERA and consulting agreement. The additional compensation, unknown to Research, was included in the final $1,631,447 premium.

I. Sterling Financial Corporation

157. In or about December, 2001, Sterling Financial Corporation ("Sterling"), located in Lancaster, Pennsylvania, engaged Dietrich to assist the company in purchasing an SPGA for Sterling's pension plan.

158. On December 19, 2001, Dietrich coordinated the preliminary bids for the Sterling SPGA purchase. Seven insurers provided bids, including The Hartford. The lowest preliminary bid was provided by United of Omaha ($2,859,940); The Hartford's bid was fourth lowest ($2,902,337).

159. On or about December 28, 2001, Dietrich obtained final bids. This time, CNA provided the lowest bid ($2,843,645) and The Hartford provided the next lowest ($2,862,377). Although CNA's quote beat The Hartford's by a half percent, or $18,732, Sterling selected The Hartford.

160. On December 28, 2001, Sterling's Benefits Officer executed The Hartford's application for annuity. The application disclosed the main terms of the SPGA contract, including the final premium, the number of retirees covered, the monthly benefit each retiree would receive and the commission Dietrich was paid for its services, which was four percent or $142,051. The application, however, failed to disclose to Sterling that, in addition to the commission, The Hartford made a concealed payment of $42,401 to Dietrich for the services it had provided to The Hartford under the ERA, which included The Hartford's obtaining a 13% return on equity on the sale. The additional payment was built into the cost of the annuity.

J. PricewaterhouseCoopers

161. Beginning in January, 2003, PwC began searching for a consultant to assist it with purchasing an SPGA for the PwC partners' retirement program. At the time, PwC estimated the purchase to be approximately $500,000,000, making it one of the single largest SPGA purchases in the market at that time.

162. In response to PwC's request for proposals to various brokers, Brentwood submitted a detailed proposal touting its strengths, including its "experienced negotiating techniques to obtain the lowest possible premium" from each insurance company. As Brentwood stated, the bidding ends "only when we are certain carriers have reached their lowest price," and reiterated in a subsequent communication to PwC that its "goal" was to ensure the "auction was fair and accurate." In return for the services it could provide PwC, Brentwood proposed a fee of $250,000.

163. Eventually Brentwood and PwC executed an Annuity Consultant Agreement that specified the services Brentwood would provide PwC and memorialized the $250,000 fee PwC agreed to pay.

164. On September 16, 2003, PwC purchased two SPGA contracts for a total premium of $582,346,900. The purchase was split almost equally between The Hartford ($291,350,000) and Travelers ($290,996,900). That same day, a PwC officer executed The Hartford's application for annuity. The application disclosed the final premium, the number of plan participants, the commencement date of the contract and the fact that there was no commission paid.

165. The Hartford's application for annuity failed to disclose that Brentwood provided The Hartford with inside information on the day of the final bid. As recounted in an internal email by The Hartford's salesman for the placement, Brentwood "added some value by keeping The Hartford in the bid" after PwC questioned a particular term of The Hartford's proposal. Nonetheless, consistent with the "goals of the ERA", Brentwood gave PwC information "and The Hartford was able to continue in the bidding process. Also, Brentwood did provide The Hartford with the details of the bidding process and competitors' bids on [the] final day. . . . [Brentwood] added some value but determining how much is subjective."

166. The salesman's superiors at The Hartford, however, felt that the additional information Brentwood had provided did not warrant the amount of money contemplated under the clandestine ERA and consulting agreements. Thus, The Hartford balked at making an ERA payment to Brentwood. Brentwood, nevertheless, continued to demand the payment. This prompted The Hartford executives to schedule a meeting with Brentwood shortly after the conclusion of the sale to reaffirm "the interpretation of the ERA agreement" and The Hartford's "expectations" of Brentwood. Prior to that meeting Brentwood's principal warned The Hartford (as recounted in the notes of a salesman of The Hartford) "that Brentwood will not write another piece of business with The Hartford" if the insurer did not "honor" the ERA obligation.

Eventually, The Hartford paid Brentwood an undisclosed ERA sum of $100,000 for its services to The Hartford in landing the PwC business.

K. USCO Distribution Services, Inc.

167. In 1998, USCO Distribution Services, Inc. ("USCO") was one of the largest warehouse-based logistics services providers in North America, with over 70 locations and 3,000 employees. At the time, USCO was located in Naugatuck, Connecticut. In July, 2001, USCO was acquired by Swiss-based Kuehne & Nagel International AG, and is currently located in Hamden, Connecticut.

168. Beginning sometime in the summer of 1998, and continuing through 2004, USCO engaged USI to assist in the purchase of a number of SPGAs for the company's defined benefit plans. USI agreed with USCO that its commission for its services in 1998 would be 2% of the final premium.

169. On or about June 29, 1998, The Hartford submitted a quote to USI of $1,059,000 for USCO Plan C (USCO had three separate retirement plans). The quote included in the premium a 2% commission and a 1% ERA. Subsequent to The Hartford's submission of its preliminary quote, but before the final bid, USI provided The Hartford with information on the preliminary quotes submitted by The Hartford's competitors on this placement: the Travelers, Principal and John Hancock.

170. On July 14, 1998, in a letter to The Hartford, USI informed the insurance company that the final round of bidding would take place on July 17th and requested The Hartford's final bid for the Plan C SPGA by 11:30am that day.

171. On July 17, 1998, The Hartford was the successful bidder for the Plan C SPGA, with a winning bid of $1,008,700. That same day, USCO executed The Hartford's application

for annuity, which disclosed the material terms of the annuity contract, including a commission of 2%, but failed to disclose that, in addition to the commission, The Hartford was paying USI 1% of the premium, or $10,087, for the services provided to The Hartford under the ERA. The additional payment was built into the cost of the annuity.

X. <u>CAUSES OF ACTION</u>

<u>First Count</u>: Breach of the Connecticut Unfair Trade Practices Act (Conn. Gen. Stat. § 42-110a *et seq*.)

172. Paragraphs 1 through 171 of the Complaint are hereby repeated and realleged as Paragraphs 1 through 171 of the First Count as if fully set forth herein.

173. At all times relevant to this Complaint, The Hartford was engaged in the trade or commerce of an insurance carrier within the State of Connecticut.

174. By engaging in the acts and practices alleged herein, The Hartford made or caused to be made, directly or indirectly, explicitly or by implication, representations and omissions which are material, reasonably interpreted, false and likely to mislead, including, but not limited to, the following:

a. that The Hartford disclosed all material terms to their customers regarding the purchase of their SPGA and the compensation The Hartford paid brokers for the placement of the SPGA when, in fact, The Hartford hid those material terms;

b. that the brokers owed a duty of trust, confidence and loyalty to their clients and acted solely in their interest when, in fact, the brokers acted in the interest of The Hartford;

c. that the brokers had a contractual duty and obligation to their clients to act in good faith, fair dealing and their best interests when, in fact, the brokers had a contractual relationship with The Hartford to act in the interest of The Hartford;

d. that the brokers would negotiate each insurance company to its lowest bid when, in fact, they did not because they were secretly paid by The Hartford to provide that company with profitable business;

e. that the brokers would conduct a fair bidding process for the purchase of an SPGA when, in fact, they provided The Hartford with commercially sensitive information regarding its competitors bids;

f. that the brokers recommended The Hartford to their clients solely on The Hartford's qualifications when, in fact, they did not; and

g. that the brokers disclosed all material terms to their customers regarding the compensation The Hartford paid the brokers for the placement of the SPGA when, in fact, the brokers hid those material terms.

175. By engaging in the acts and practices alleged herein, *i.e.*, by making partial disclosures to its customers regarding the compensation The Hartford paid brokers for the placement of the SPGA, The Hartford was required to make a full and fair disclosure regarding the compensation The Hartford paid brokers for the placement of the SPGA, which it failed to do.

176. The Hartford's acts and practices as alleged herein violated the public policy of the State of Connecticut, including, but not limited to the public policy against:

a. conferring a benefit upon an agent or fiduciary without the consent of the latter's principal, with intent to influence the agent or fiduciary's conduct in relation to its principal's affairs as embodied in Conn. Gen. Stat. § 53a-160;

b. paying brokers to steer their clients to The Hartford in order to qualify for larger bonuses and contingent commissions;

c. entering into undisclosed fee arrangements whereby The Hartford paid undisclosed compensation to the fiduciary of the insured;

d. failing to disclose to plan administrators information on fees and commissions it paid to the brokers and which the plans needed to accurately prepare the Annual Return/Report of Employee Benefit Plan (Form 5500) as embodied in the Employee Retirement Income Security Act of 1974, § 103, *et seq.*; and

e. engaging in conduct that constitutes a tortious interference with the business expectancy of the plans that engaged the brokers to provide consulting services on their behalf.

177. The Hartford's acts and practices as alleged herein have been and are unethical, oppressive and unscrupulous, and have caused substantial injury.

178. The Hartford entered into contracts and agreements and engaged in a deceptive and unfair conspiracy with various brokers that had a purpose and effect of (a) tortiously interfering with another's business expectancy, (b) breaching the broker's fiduciary duty to the plans, and (c) concealing the payment of additional compensation that was added to the plan's premium.

179. The Hartford entered into contracts and agreements and engaged in deceptive and unfair acts and practices that had the purpose and effect of aiding and abetting and giving substantial assistance to the brokers which resulted in a breach of their fiduciary duty to the plans.

180. The Hartford's acts or practices alleged herein constitute unfair or deceptive acts or practices in violation of Conn. Gen. Stat. § 42-110b.

Second Count:

181. Paragraphs 1 through 180 of the First Count are incorporated herein as paragraphs 1 through 180 of this Second Count.

182. The Hartford engaged in the unfair and/or deceptive acts or practices alleged herein when it knew or should have known that its conduct was unfair and/or deceptive in violation of Conn. Gen. Stat. § 42-110b.

PRAYER FOR RELIEF

WHEREFORE, the State of Connecticut requests the following relief:

1. A finding that by the acts alleged herein, The Hartford engaged in unfair and deceptive acts and practices in the course of trade or commerce of an insurance company within the State of Connecticut in violation of the Connecticut Unfair Trade Practices Act;

2. An injunction pursuant to Conn. Gen. Stat. § 42-110m (a) enjoining The Hartford from engaging in any acts that violate the Connecticut Unfair Trade Practices Act, including, but not limited to, the unfair and deceptive acts and practices acts alleged herein, specifically enjoining the payment of contingent commissions however labeled;

3. An order pursuant to Conn. Gen. Stat. § 42-110m (a) requiring that The Hartford submit to an accounting to determine the amount of improper bonuses and commissions paid by The Hartford and the profits it obtained from SPGAs purchased due to the illegal scheme;

4. An order pursuant to Conn. Gen. Stat. § 42-110o (b) directing The Hartford to pay a civil penalty of $5,000 for each and every willful violation of the Connecticut Unfair Trade Practices Act;

5. An order pursuant to Conn. Gen. Stat. § 42-110m (a) directing The Hartford to pay restitution;

6. An order pursuant to Conn. Gen. Stat. § 42-110m (a) directing The Hartford to disgorge all revenues, profits, and gains achieved in whole or in part through the unfair and/or deceptive acts or practices complained of herein;

7. An order pursuant to Conn. Gen. Stat. § 42-110m (a) directing The Hartford to pay reasonable attorneys' fees to the State;

8. Costs of suit; and

9. Such other relief as this Court deems just and equitable.

Dated at Hartford, Connecticut, this 10th day of May, 2006.

PLAINTIFF
STATE OF CONNECTICUT

RICHARD BLUMENTHAL
ATTORNEY GENERAL

By:

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RETURN DATE: May 23, 2006

STATE OF CONNECTICUT	:	SUPERIOR COURT
	:	JUDICIAL DISTRICT OF HARTFORD
Plaintiff,	:	
v.	:	
	:	
	:	
THE HARTFORD FINANCIAL SERVICES GROUP, INC.; AND HARTFORD LIFE, INC.	:	
Defendants.	:	MAY 10, 2006

AMOUNT IN DEMAND

The amount, legal interest or property in demand is $15,000.00 or more, exclusive of interest and costs.

PLAINTIFF
STATE OF CONNECTICUT

BY: ______________________________

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