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ATTORNEYS FOR PLAINTIFFS

X

FAIRFAX FINANCIAL HOLDINGS LIMITED, and  
CRUM & FORSTER HOLDINGS CORP.,

Plaintiffs,

- against -

S.A.C. CAPITAL MANAGEMENT, LLC, S.A.C.  
CAPITAL ADVISORS, LLC, S.A.C. CAPITAL  
ASSOCIATES, LLC, S.A.C. HEALTHCO FUNDS,  
LTC, SIGMA CAPITAL MANAGEMENT, LLC,  
STEVEN A. COHEN, EXIS CAPITAL  
MANAGEMENT, INC., EXIS CAPITAL, LLC, EXIS  
DIFFERENTIAL PARTNERS, L.P., EXIS  
INTEGRATED PARTNERS, L.P., ADAM D.  
SENDER, SPYRO CONTOGOURIS, MAX  
BERNSTEIN, ANDREW HELLER, LONE PINE  
CAPITAL, LLC, LONE PINE MEMBERS, LLC,  
LONE PINE ASSOCIATES, LLC, ROCKER  
PARTNERS, L.P., COPPER RIVER PARTNERS,  
L.P., DAVID ROCKER, THIRD POINT LLC,  
DANIEL S. LOEB, JEFFREY PERRY, TRINITY  
CAPITAL OF JACKSONVILLE, INC., TRINITY  
FUND, LTD., MORGAN KEEGAN & COMPANY,  
INC., JOHN D. GWYNN, CHRISTOPHER BRETT  
LAWLESS, and DOES 1 THROUGH 50,

Defendants.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: MORRIS COUNTY  
DOCKET NO. \_\_\_\_\_  
Civil Action  
COMPLAINT AND JURY DEMAND

RECEIVED  
JAN 11 9 56 AM '09  
MORRIS COUNTY

1. This action arises from a massive, illegal and continuing stock market manipulation scheme, which has targeted and severely harmed Fairfax, among other companies, and which has resulted in immense ill-gotten profits for S.A.C. Capital, Exis Capital, Lone Pine Capital, Third Point, Rocker Partners, Trinity Capital, and other extremely powerful hedge funds.

**PRELIMINARY STATEMENT**

Plaintiffs Fairfax Financial Holdings Limited ("Fairfax Holdings") and Crum & Forster Holdings Corp. ("C&F") and, together with Fairfax Holdings, "Fairfax" or "plaintiffs"), complaining against defendants S.A.C. Capital Management, LLC ("S.A.C. Capital Management"), S.A.C. Capital Advisors, LLC ("S.A.C. Capital Advisors"), S.A.C. Capital Associates, LLC ("S.A.C. Capital Associates"), S.A.C. Healthco Funds, LLC ("S.A.C. Healthco"), Sigma Capital Management, LLC ("Sigma"), Steven A. Cohen ("Cohen"), Exis Capital Management, Inc. ("Exis Capital Management"), Exis Capital, LLC ("Exis Capital"), Exis Differential Partners, L.P. ("Exis Differential"), Exis Integrated Partners, L.P. ("Exis Integrated"), Adam D. Sender ("Sender"), Spyro Contogouris ("Contogouris"), Max Bernstein ("Bernstein"), Andrew Heller ("Heller"), Lone Pine Capital LLC ("Lone Pine Capital"), Lone Pine Members LLC, Lone Pine Associates LLC, Rocker Partners, L.P. ("Rocker Partners"), Copper River Partners, L.P. ("Copper River"), David Roker ("Roker"), Third Point LLC ("Third Point"), Daniel S. Loeb ("Loeb"), Jeffrey Perry ("Perry"), Trinity Capital of Jacksonville, Inc. ("Trinity Capital"), Trinity Fund, Ltd. ("Trinity Fund"), Morgan Keegan & Company, Inc. ("Morgan Keegan"), John D. Gwym ("Gwym"), Christopher Brett Lawless ("Lawless"), and Does 1 through 50, say as follows:

2. This scheme involved: defendants' preparation of a massive and fraudulent disinformation campaign attacking Fairfax and other targeted publicly-traded companies, including the preparation of ostensibly objective, but in fact biased, negative stock analyst reports; defendants' accumulation of short positions in the stock of those companies -- i.e., bets that the stock prices would decline; and defendants' subsequent unleashing of the disinformation campaign and biased analyst reports -- thus bringing about the sought-after stock price declines and resulting immense profits for the defendants.

3. Defendant S.A.C. Capital Management and its affiliates (collectively, "S.A.C. Capital" or S.A.C.), are at the center of this illegal scheme, along with a number of other powerful hedge funds, including S.A.C. spin-off Exis Capital, Lone Pine Capital, Third Point, Rucker Partners, and Trinity Capital. These hedge funds have immense power in the financial markets. Cohen alone, through his control over and interests in S.A.C. Capital and other hedge funds, controls at least \$7 billion in capital, with his trading activity regularly accounting for 3% of the daily volume of trading on the New York Stock Exchange ("NYSE").

4. Fairfax -- one of the scheme's targets -- is an insurance and financial services company operating in Canada and the United States, including New Jersey. Fairfax and its operating divisions employ almost 8,000 people worldwide.

5. Beginning in or about December 2002, after Fairfax's stock was listed on the NYSE, S.A.C. Capital and the other defendants launched a devastating attack -- which the conspirators themselves referred to as the "Fairfax Project" -- on Fairfax, its business, and its stock. In furtherance of their scheme, defendants, after having taken short positions in Fairfax stock, engaged in an organized effort to damage severely, if not destroy, Fairfax and its affiliated companies by, among other things:

Disseminating false and misleading information concerning Fairtax directly to those most critical to Fairtax's business, including its employees, executives, shareholders, bankers, regulators and rating agencies;

- Disseminating false and misleading information to the markets and the public through purportedly independent analyst reports, statements to the financial press, and the wholesale manufacture of bogus accounting and business issues;
- Engaging in a long-term campaign of personal harassment of present and former employees, executives and shareholders of Fairtax, including personal attacks delivered to executives' clergy and family members; and
- Attempting to instigate regulatory investigations of Fairtax by providing false and misleading information and documentation to regulatory agencies.

6. Defendants' attack against Fairtax has been aimed at damaging, if not destroying, Fairtax and its business, so that the short-selling defendants could profit from the resulting drastic decline in Fairtax's stock price. Moreover, at those times since December 2002 when Fairtax's stock price would recover based on Fairtax's positive business results and sound business plan, defendants only intensified their efforts. Defendants went to such lengths to try to destroy Fairtax that they threatened, harassed and sought to intimidate Fairtax's high-level executives and their families, and they disseminated widely in the market false and defamatory rumors, including, for example, rumors that Fairtax's CEO had absconded with stolen company funds and was being pursued by the Royal Canadian Mounted Police.

7. Defendants' egregious misconduct brought about their intended result -- further severe damage to Fairtax's business and further massive declines in Fairtax's stock price.

8. Fairtax brings this action to recover no less than \$6 billion in compensatory damages, as well as punitive and treble damages for defendants' egregious misconduct, and injunctive relief barring defendants from continuing to perpetrate their scheme.

perpetrate a fraud and injustice.

S.A.C. Capital abused the corporate form by using the entities they control and operate to that each is the alter ego of the others and of Cohen. In addition, as set forth herein, Cohen and operates S.A.C. Capital without regard to their putatively separate legal form and existence, such Cohen, the "S.A.C. Defendants") and various other hedge funds. Cohen controls, dominates, and S.A.C. Capital Management, S.A.C. Capital Advisors, Sigma, S.A.C. Healthco (collectively with founded and, directly or indirectly, owns, controls and manages S.A.C. Capital Associates,

14. Defendant Cohen resides at 30 Crown Lane, Greenwich, Connecticut. Cohen

principal place of business at 540 Madison Avenue, New York, New York.

13. Defendant Sigma is a hedge fund organized under the laws of Delaware, with its

York.

British West Indies, with its principal place of business at 540 Madison Avenue, New York, New

12. Defendant S.A.C. Healthco is a hedge fund organized under the laws of Anguilla,

their principal places of business at 72 Cummings Point Road, Stamford, Connecticut.

defendants S.A.C. Healthco and Sigma), are organized under the laws of Delaware, and maintain

Capital Advisors operate and manage, directly or indirectly, various hedge funds (including

11. Defendants S.A.C. Capital Associates, S.A.C. Capital Management, and S.A.C.

its principal place of business at 305 Madison Avenue, Morristown, New Jersey.

10. Plaintiff C&F is a holding company organized under the laws of Delaware, with

Toronto, Ontario, Canada.

under the laws of Canada, with its principal place of business at 95 Wellington Street West,

9. Plaintiff Fairfax Holdings is a financial services holding company organized

**THE PARTIES**

15. Defendant Exis Capital Management is a corporation organized under the laws of Delaware, with its principal place of business at 875 Third Avenue, New York, New York.
16. Defendant Exis Capital is a limited liability company organized under the laws of Delaware, with its principal place of business at 875 Third Avenue, New York, New York.
17. Defendant Exis Differential is a limited partnership organized under the laws of Delaware, with its principal place of business at 875 Third Avenue, New York, New York.
18. Defendants Exis Integrated is a limited partnership organized under the laws of Delaware, with its principal place of business at 875 Third Avenue, New York, New York.
19. Defendant Sender is a co-founder of Exis Capital Management. Sender resides at 109 Greene Street, New York, New York.
20. Defendant Contouris is an employee of Exis Capital Management. Contouris resides at 12 East 78th Street, New York, New York.
21. Defendant Bernstein is an employee of Exis Capital Management. Bernstein resides at 401 East 34th Street, New York, New York.
22. Defendant Heller is the Chief Executive Officer of Exis Capital Management. Heller resides at 200 East 66th Street, New York, New York. Defendants Exis Capital Management, Exis Capital, Exis Differential, Exis Integrated, Sender, Contouris, Bernstein and Heller are collectively referred to as the "Exis Defendants."
23. Defendants Lone Pine Capital, Lone Pine Members LLC, and Lone Pine Associates LLC (collectively, the "Lone Pine Defendants") are limited liability companies organized under the laws of Delaware, with their principal place of business at 2 Greenwich Plaza, Greenwich, Connecticut.

- 24. Defendant Rucker Partners is a limited partnership organized under the laws of New York, with its principal place of business at 374 Millburn Avenue, Millburn, New Jersey.
- 25. Defendant Copper River, is the successor to Rucker Partners, and is organized under the laws of New York, with its principal place of business at 374 Millburn Avenue, Millburn, New Jersey.
- 26. Defendant Rucker was, during times relevant to the complaint, the primary owner and manager of Rucker Partners. Rucker resides at 43 Minnisisink Road, Short Hills, New Jersey. Defendants Rucker Partners, Copper River and Rucker are collectively referred to as the "Rucker Defendants."
- 27. Defendant Third Point is a limited liability company organized under the laws of Delaware, with its principal place of business at 390 Park Avenue, New York, New York.
- 28. Defendant Loeb is the Chief Executive Officer of Third Point. Loeb resides at 7 MacDougal Alley, New York, New York.
- 29. Defendant Perry is an employee of Third Point. Perry resides at 9 Wayside Lane, Scarsdale, New York. Defendants Third Point, Loeb and Perry are collectively referred to as the "Third Point Defendants."
- 30. Defendant Trinity Capital is organized under the laws of Florida, with its principal place of business at 1819 Goodwin Street, Jacksonville, Florida.
- 31. Defendant Trinity Fund is organized under the laws of Florida, with its principal place of business at 1620 Independent Square, Jacksonville, Florida. Defendants Trinity Capital and Trinity Fund are together referred to as the "Trinity Defendants."
- 32. Defendant Morgan Keegan is a corporation organized under the laws of Tennessee, with its principal place of business at 50 Front Street, Memphis, Tennessee.

33. Defendant Gwynn is an employee of Morgan Keegan. Gwynn resides at 2205

Poplar Drive, Memphis, Tennessee. Defendants Morgan Keegan and Gwynn are together

referred to as the "Morgan Keegan Defendants."

34. Defendant Lawless was an analyst for Fitch Ratings and currently is an analyst for the Center for Financial Research & Analysis ("CFRA"). Lawless resides at 860 Old Chester Road, Far Hills, New Jersey.

35. Does 1 through 50, whose identities are presently unknown to plaintiffs, include

the limited and general partners of the named defendants, as well as affiliates, co-venturers, co-conspirators, and/or aiders and abettors of the named defendants in the scheme, enterprise, and misconduct alleged in this complaint, including, among others, Canadian and United States financial analysts and portfolio managers.

36. Plaintiffs and numerous defendants regularly conduct business in the County of Morris in the State of New Jersey.

**STATEMENT OF FACTS**

**A. The Criminal Enterprise**

**1. The Criminal Scheme**

37. This action arises from a massive, illegal and continuing stock market

manipulation scheme, which has targeted and severely harmed Fairtax, among other companies, and which has resulted in immense ill-gotten profits for S.A.C. Capital, Exis Capital, Lone Pine Capital, Third Point, Rocker Partners, Trinity Capital, and other extremely powerful hedge funds.



38. As it relates directly to Fairfax, the scheme involves the concerted efforts of a group of hedge funds, purportedly independent analysts, and their cohorts, who engaged in an organized effort to destroy Fairfax and its affiliated companies by, among other things:

- Undermining confidence in Fairfax and its business by disseminating false and misleading information concerning Fairfax directly to Fairfax's employees, executives, shareholders, bankers, and rating agencies;
- Disseminating false and misleading information through purportedly independent analyst reports, false and misleading statements to the financial press, and the wholesale manufacture of bogus accounting and business issues that have no basis in fact;
- Engaging in a long-term campaign of harassing present and former employees, executives and shareholders of Fairfax, including personal attacks delivered to executives' clergy and family members;
- Attempting to instigate regulatory investigations of Fairfax by providing false and misleading information and documentation to regulatory agencies.

39. Defendants intend to profit from the destruction of Fairfax -- dubbed the "Fairfax Project" -- by short-selling Fairfax's publicly-traded securities -- that is, taking positions in those securities that would be profitable only if Fairfax's stock price declined. A "short seller" or

"short" borrows stock from a lender and sells the borrowed stock, expecting that the price of the stock will decline, and that he will therefore be able to purchase the stock later at a lower price, return the stock to the lender and keep the profit. The scheme also employed various "short-equivalent" trading strategies -- such as the purchase of "put" or "swap" options -- that likewise profited from future declines in the stock price of targeted companies. And naked shorting, which was used to establish large short positions in Fairfax without generating price spikes due to the extremely low number of shares actually locatable for shorting.

40. Defendants' scheme goes beyond the attack on Fairfax and has targeted many dozens, if not hundreds, of other publicly-traded companies, as well. Typically, under the

investors.

defendants who reaped correspondingly enormous profits at the expense of those innocent investors in the targeted companies, who collectively lost many billions of dollars to the morale, productivity, and recruiting. The scheme also inflicted enormous financial harm on conduct business, implement strategic plans, secure necessary capital, and maintain employee the scheme, which, among other things, directly and materially interfered with their ability to 42. These targeted companies suffered enormous damage as a direct consequence of volatility surrounding the release of the anticipated information.

and executing various trading strategies otherwise designed to exploit trading volume and reducing short positions and/or taking long positions before the release of positive information, material non-public information by shorting stocks before the release of unfavorable information, various fiduciary relationships or otherwise misappropriated. The defendants traded on such access to material non-public confidential information that was shared with them in violation of 41. The defendants, in concert with one another and others, also exploited advance and regulatory scrutiny.

analysts, and using such manufactured misinformation to engender investor suspicion and legal otherwise influencing unwarranted, false and exaggerated negative reports from biased stock misleading information, orchestrating negative news articles, commissioning, dictating, or which they had taken short positions by, among other means, disseminating materially false and scheme, the defendants, in concert with one another and others, drove down the price of stocks in

has one of, if not the, most powerful market-moving capabilities on Wall Street. market manipulation employed in executing those strategies. Consequently, Cohen personally "satellite" fund investments, Cohen is better able to mask his trading strategies and the frequent hold up to a 50% interest in any hedge funds they form after leaving S.A.C. Through such managers who are required to agree as a condition of S.A.C. employment to permit Cohen to also invested billions more in non-S.A.C. funds, including funds formed by former S.A.C. he directly controls. In addition to the billions he controls directly through those funds, he has

45. Cohen's market influence, however, extends much further than the S.A.C. funds hands-on fashion.

(comprised of Cohen's personal monies), all of which Cohen manages in a highly integrated and -- including a core fund, a global diversified fund, a health-care fund, and defendant Sigma fund These investment dollars are channeled through several different "portfolio companies" or funds regularly accounts for 3% of the NYSE daily volume and 1% of the NASDAQ daily volume. S.A.C. funds he controls." Through S.A.C. Capital, Cohen controls no less than \$7 billion and Street you've never heard of" because of the "highly secretive and stupendously successful leader Steven A. Cohen. Cohen is known in the industry as the "most powerful trader on Wall

44. The S.A.C. hedge funds derive their names from the initials of their founder and

**a. The S.A.C. Defendants**

among others, the following:

was devised and executed by an association, associations, and associations-in-fact comprised of,

43. The illegal stock manipulation scheme hereinafter described (the "Enterprise")

**2. The Enterprise Members**

46. In the first 12 years since he formed S.A.C. Capital Advisors, Cohen had regularly generated incredible returns in the range of 40% per annum. Reflecting this extraordinary performance, investors pay him a 50% success fee, far above the 20% industry standard. As a result, Cohen's annual S.A.C. management fee regularly has exceeded \$400 million, which is in addition to profit he earns on his own monies invested in Sigma and other S.A.C. and non-S.A.C. funds.
47. Unlike most hedge funds, S.A.C. seeks no volume discount on its enormous trading costs and commissions, and consequently pays over \$150 million in annual commissions -- making it one of Wall Street's top ten trading customers. In addition, S.A.C. frequently purchases secondary offerings, that include substantial built-in brokerage commissions for banks, and thereby further increases S.A.C.'s already substantial financial leverage and influence. Cohen uses this enormous financial leverage to support S.A.C.'s trading strategies by demanding access to material non-public information from financial institutions with whom S.A.C. does business, including non-public inside information concerning public companies and other clients to whom those institutions owe fiduciary and other duties of non-disclosure, and the substance and timing of reports and recommendations being issued by analysts for those institutions. Financial institutions and their employees understand -- because S.A.C. has told them -- that a failure to provide such information will result in the loss of S.A.C.'s substantial business.
48. S.A.C. uses its enormous financial leverage to not only extract and trade on material non-public information but also to actually dictate the substance and timing of certain material information being disseminated to the market. For example, S.A.C. regularly uses its substantial financial leverage to direct and influence the analysis and recommendations of purportedly independent stock analysts and the time such analysts and recommendations are

issued to the market, without any disclosure of the material conflict of interest reflected by its leverage and influence. Like S.A.C.'s demand for material non-public information, it is now simply understood in the industry that failing to provide influence and control over the substance and timing of analyst reports will result in the loss of S.A.C.'s substantial business.

49. S.A.C. directly or through its affiliates or satellite funds is an important Morgan Keegan client, and Gwynn collaborates closely with S.A.C., including with Steven Cohen, who he speaks with directly both in person and in more frequent telephone communications.

50. To maximize the impact of its access to material non-public information and control and influence over the substance and timing of analyst reports, S.A.C. focuses on stocks with valuations easily influenced by market information such as thinly traded stocks, small to modestly capitalized stocks, and stocks in volatile sectors. S.A.C. rarely invests in such companies long-term but instead pursues short-selling or event-driven trading strategies based on S.A.C.'s access to -- and control over -- material non-public information, and the substance and timing of stock analyst reports.

51. To maximize the use of S.A.C.'s substantial market influence, under Cohen's direction, S.A.C. also places extreme pressure on its traders, managers, employees, and agents to produce at all costs. S.A.C. generates such intense pressure by, among other things, imposing what is described internally at S.A.C. as an "eat what you kill" compensation scheme under which compensation depends on individual trading performance and not -- as is the industry norm -- on the fund's overall performance. Those who fail to produce are quickly terminated: "At S.A.C., you either perform or you're dead," according to one public report by an insider. Such policies ensure that those who remain at S.A.C. are willing and capable of doing whatever it takes to secure the extraordinary performance Steven Cohen demands. The enormous pressure

54. In 1998, Sender and Ken Lissak, highly-successful S.A.C. traders and senior Cohen lieutenants, left S.A.C. to form hedge fund Kadem Capital ("Kadem"). Like S.A.C., Kadem charge a 50% success fee, concentrated its focus on short-selling, used trading and other financial leverage to influence the substance and timing of market moving analyst reports, and

**b. The Fixis Defendants**

53. The financial firms and associated analysts with which S.A.C. regularly does business directly, and indirectly through Cohen's satellite funds, include defendants Morgan Keegan and Gwym. As a result of S.A.C.'s frequent communications with Morgan Keegan and Gwym, S.A.C. learns when Gwym intends to issue reports and what they will say and, indeed, frequently directs Gwym on when to issue reports and what to say.

53. The financial firms and associated analysts with which S.A.C. regularly does legitimate investors.

52. From spring 2003 to the present -- as it had in the past -- the S.A.C. Defendants orchestrated short-selling "bear attacks" on numerous publicly traded companies, including Fairfax. They prosecuted these attacks on Fairfax and other targeted companies by, among other things, paying, pressuring, and otherwise influencing purportedly independent analysts and others working with S.A.C. to disseminate materially false and misleading information about the business, accounting, and corporate governance of these targeted companies. These materially misleading misinformation campaigns devastated the targeted companies by tarring their business reputations, eroding investor confidence, and devastating management and employee morale and focus, and thereby artificially driving down the stock price to the enormous benefit of the short-selling hedge fund defendants and the extreme detriment of the companies and their legitimate investors.

to perform at S.A.C. was particularly acute in 2003 after Cohen had experienced what insiders called his "very disappointing" 14% returns and \$100 million in management fees in 2002.

57. According to published reports, Sender employs persons who utilize "unorthodox methods" to "get the job done." For example, in connection with a failed investment, Sender retained the now incarcerated private detective Anthony Pelicano to "ensure that Sender got his money back." As part of that effort, Pelicano engaged in illegal wiretapping that Sender knew

additional short-selling disasters. went elsewhere. Accordingly, it was critical to Exis's continued survival that there be no such for this investment debacle. Although Exis survived, the fund suffered for years as investors his reputation and business, Sender blamed Kenneth Grant ("Grant"), also formerly of S.A.C., shrunk to a \$700 million fund and was struggling to retain its remaining investors. To salvage on December 23 and continued to increase over the next six months. By June 2004, Exis had BlackBerry-maker Research in Motion ("RIM") when that company's stock price jumped 50% investor redemptions and personnel defections as a result of a concentrated short position in 56. However, beginning in December 2003, Exis suffered staggering losses, massive

over Gwynn, with whom Exis also collaborates closely. Also like S.A.C., Exis is a significant client of Morgan Keegan and has substantial influence collaborate in carrying-out attacks on companies in whose stock they have taken short positions. S.A.C. and Cohen also are investors, directly and indirectly, in Exis, and Sender and Cohen trading strategies, including in high-risk illiquid positions such as concentrated short-selling bets. Capital Management. By late 2003, Exis was managing over \$1.5 billion and pursued high-risk At the end of 2001, Sender bought out Lissak's interest in Kadem and changed the name to Exis 55. In its first four years, Kadem enjoyed average annual returns in excess of 30%.

its trading positions disguised as independent and unbiased research. used purportedly "custom" research reports in order to disseminate its own views supportive of

investigations, and interferes with the target's business by harassing, threatening, intimidating, manipulative trading activity, attempts to instigate regulatory and law enforcement

60. In addition to disseminating disinformation, Contogouris plans and directs

the media based on such disinformation.

who were paid or otherwise influenced to support short-sellers; and (d) orchestrating stories in

relationship with persons shorting that stock; (c) stock research reports prepared by third-parties

Contogouris prepares and circulates without disclosing -- as required by law -- his financial

misrepresented telephone calls, e-mails and personal communications; (b) stock research reports

constituencies. This dissemination occurs through, among other things, (a) anonymous or

to their employees, shareholders, analysts, partners, customers, and other important

disseminates materially false, misleading, and unfounded disinformation about target companies

material non-public information on which they trade. To secure this objective, Contogouris

drive down the price of stocks in which they have large short positions and otherwise to secure

59. Spyro Contogouris is an operative for short-selling hedge funds that pay him to

### c. Spyro Contogouris

the illegal short-selling activities against Fairfax that are described in detail below.

Executive Officer of Exis. Along with Sender, Heller approved, managed, and participated in

58. Defendant Heller grew up with Sender, who later appointed him the Chief

clients had sold short.

shadowy operative who utilized "unorthodox" and illegal methods to drop the price of stocks his

when Sender faced catastrophic short-selling losses in Fairfax stock, he turned to another

about, and knew was illegal, but did nothing to stop. Likewise, as set forth more fully below,



- Harassing and intimidating senior executives, their staffs, and their families through anonymous or misrepresented communications, including communications or unsolicited "meetings" with Watsa's executive assistant,
- Relentlessly disseminating highly misleading information about Fairfax and Watsa to employees, shareholders, analysts, rating agencies, auditors, journalists, and regulators via, among other means, e-mail, bogus or corrupted "research" reports, internet chat boards, a defamatory "Prem Watsa" website, and in personal meetings and telephone calls;

the Enterprise's Fairfax objectives aggressively by, among other things:

62. Contogouris traveled frequently in support of the Enterprise's objective and was in regular discussions concerning his activities with, among others, Sender, Heller, Third Point, Perry, S.A.C., Gwynn, Bernstein, Lawless and other Enterprise members. Contogouris pursued

testify about such events -- that is, to preserve his ability to commit perjury.

he uses aliases and false personas to preserve his ability to deny his activities if ever forced to other times they identified themselves with aliases and false personas. Contogouris claims that with M14 Reconnaissance but listing as their phone number the Exis phone number, and at still other times they conflated the two by, for example, delivering business cards associating them times they represented that they were employees of a sham entity called M14 Reconnaissance, at phones. At times Contogouris and Bernstein identified themselves as Exis employees, at other Bernstein operated out of Exis's New York offices where they each had their own desks and part of his work on Fairfax, Contogouris relocated to New York City and with his cohort Max down the price of Fairfax stock (as well as other stocks) but to "bring down Fairfax" itself. As Enterprise members, including but not limited to Exis, S.A.C., and Third Point, not only to drive

61. Contogouris worked for and was compensated by or on behalf of various same approach to market insiders, Contogouris attempts to elicit material inside information. and distracting its employees, officers, directors and critical business relations. Through this

65. Third Point is a \$4.3 billion hedge fund based in New York City that is run by Loeb. Perry is a senior advisor at Third Point. From 2003 to 2005, Perry was the co-manager with Jim Chanos at short-selling fund and Enterprise member Kynikos Associates, Ltd., and from 2001-2003 was a senior portfolio manager at S.A.C. Capital Advisors. Perry worked and continues to work closely with Contogours in disseminating disinformation about Fairfax, including orchestrating negative press reports, republishing those negative press reports to

**e. The Third Point Defendants**

64. Max Bernstein is a hedge fund operative who works with Contogours. Like Contogours, Bernstein operates under various aliases and is and was responsible for implementing much of the Enterprise's intimidating, harassing, and defaming conduct against Fairfax, including the transmission of highly defamatory and threatening communications and associated materials to Watsa's Pastor, his assistant, Fairfax's shareholders, analysts, and rating agencies.

**d. Max Bernstein**

63. Contogours has been the subject of numerous litigations, been judicially removed from fiduciary positions for abuses, and has been sanctioned in the past by courts for contemptible conduct.

- Misappropriating material non-public information for the purpose of supporting the Enterprise's trading strategy and attempting to coerce insiders into cooperating with him; and
- Orchestrating negative analyst coverage -- particularly through Gwym, as well as through M14 Reconnaissance reports -- and news as well as manipulative trading activity in Fairfax stock.

Pastor, family, and others;

67. David Roker was during times relevant to the complaint the primary owner and manager of hedge fund Roker Partners operating in Millburn, New Jersey. Like S.A.C., a cornerstone of Roker Partners success is its ability regularly to influence and direct the substance and timing of analyst research -- both so-called "independent" and brokerage-based research -- to support Roker Partners short positions. Roker is also a substantial shareholder in the financial news and commentary website TheStreet.com and other hedge funds and former colleagues have publicly praised his "uncanny ability to entice a select number of journalists to do negative stories on his short sales time and time again," which those familiar with Roker describe as "a key reason for his success."

**The Roker Enterprise Members** g.

66. Trinity Capital is an approximately \$500 million hedge fund headquartered in Jacksonville, Florida -- which is Enterprise member Gwynn's hometown -- with an office in Memphis, where Morgan Keegan, Gwynn, and Gwynn's co-author Matt Cantrell ("Cantrell") reside. George White is a principal of Trinity Capital and affiliated hedge funds, including Wellspring Capital. Both Trinity and Wellspring Capital have long standing relationships with Gwynn and are research clients of his and brokerage clients of Morgan Keegan. Cantrell's wife managed the office of Trinity Capital until just before Gwynn and Cantrell initiated coverage on Fairfax in early 2003 when she abruptly left Trinity to work at an affiliated fund in which White was a principal.

**Trinity Capital** f.

regulatory investigations of Fairfax.  
 Fairfax's shareholders, analysts, rating agencies, and others, and attempting to instigate

**h. The Morgan Keegan Defendants**

68. Morgan Keegan is a mid-sized investment bank based in Memphis, TN and a

subsidiary of Regions Financial Corp. Gwynn is an equities research analyst at Morgan Keegan focused on the insurance industry. In 1985, Gwynn started an investment company called First Coast Capital with a partner Willis Ball. In 1993, First Coast Capital failed and two years later Gwynn filed for personal bankruptcy. Over the course of the next several years Gwynn worked as a research analyst for the Colorado office of a small securities firm, Montag & Joeselson. In 2002 -- with the help of certain connections to powerful hedge funds with whom he had

developed a relationship -- he became an insurance industry research analyst at Morgan Keegan, which was itself dependent on hedge fund business.

69. Morgan Keegan's brokerage business and Gwynn's compensation are directly and indirectly dependent on the fees and commissions Morgan Keegan earns when large hedge funds direct their substantial trading volumes and other business to Morgan Keegan. Gwynn and the

Morgan Keegan head of equity capital, Colie Krausnick ("Krausnick") frequently travel to New York and Connecticut to solicit business from major hedge funds including Enterprise members S.A.C., Exis, Third Point, and Lone Pine. It is understood among Morgan Keegan, Krausnick, and Gwynn and these and other hedge fund clients that the quid pro quo for such business is

advance notice of and influence over the release and content of analyst reports on companies in which these large clients have positions.

70. In the case of Fairfax, Gwynn collaborated with certain hedge funds, including Enterprise member Trinity Capital, in developing extreme criticisms of Fairfax to support both short-term and long-term shorting strategies dubbed "the Fairfax Project." Gwynn

communicated these developed criticisms and his intention to release a highly negative report

containing those criticisms in a series of road show presentations to major hedge funds including, among others S.A.C., Lone Pine, Kynikos, Highfields, Greenlight Capital, and Perry Capital. The hedge funds participating in this discussions understood at their conclusion that Gwyn intended to initiate coverage of Fairfax with an extremely critical report, they understood and contributed to the substance of the criticisms to be included in the report, and they understood that the report's release would be timed to provide them an opportunity to establish their short positions. These critical Morgan Keegan clients also understood that once they had established a short position in Fairfax, Gwyn would continue to support that position with negative reports until they covered. This understanding was critical because the Fairfax Project contemplated short-term and longer term components, the latter of which involved enormous potential exposure to the Enterprise if the stock price increased substantially.

**Other Enterprise Members**

71. The Enterprise also includes other members known and unknown who participated in and facilitated the scheme, including but not limited to Lawless, John Hempton, and website Stocklemon.com each of whom individually and collectively collaborated and continue to collaborate in the disinformation campaign against Fairfax; hedge funds Perry Capital, Viking Global Investors, Platinum Asset Management, Greenlight Capital, Lighthouse Capital, Ziff Brothers, and Pequot Capital; and the trading and brokerage departments of major Wall Street and less prominent firms that facilitated the Enterprise's manipulation of Fairfax stock by (a) rebroadcasting disinformation the Enterprise fed to them; (b) engaging in manipulative trading practices to support the short-selling attack; and (c) permitting Enterprise members to heavily short Fairfax stock in violation of short selling rules.

**B. Fairfax**

**1. Fairfax's Business**

72. Plaintiff Fairfax Holdings is an insurance and financial services holding company

that owns, either wholly or substantially, several operating insurance companies and has been

under present management since September 1985. Fairfax Holding's corporate objective is to

achieve a high rate of return on invested capital and build long-term shareholder value. Fairfax

Holdings is publicly traded on the Toronto Stock Exchange and the New York Stock Exchange

under the symbol "FFH." Fairfax Holdings began trading on the New York Stock Exchange on

December 18, 2002, as a result of Fairfax's increasing focus on its United States-based business.

In 2003, Fairfax also switched to reporting its results in U.S. dollars.

73. Fairfax Holdings itself is, and has been, operated by a very small group of people,

who focus on strategic, financial and capital allocation activities for the entire holding company

group, as well as monitoring the performance of those operating companies. Although the

operating divisions employ almost 8,000 employees, there are only 50 employees at the holding

company's Toronto headquarters.

74. The insurance operating companies generate a large amount of cash, which must

be invested and can generate significant profits. One of the benefits of the structure of the

Fairfax group of companies is that the investment management for the insurance operating

companies is centralized, with a focus on long-term, value-oriented total returns. This structure

leaves the individual operating companies to focus without distraction on their insurance

underwriting businesses.

75. Fairfax operates its business, as it has for over twenty years, under certain guiding

principles. Fairfax, as a matter of policy, takes a long-term view of its business and its investing.

Its focus is on benefiting its customers, shareholders and employees in the long-run, even if pursuing those goals means that in a particular circumstance the company must sacrifice short-term profits -- and sometimes suffer short-term declines in stock price. Consistent with this approach, Fairfax's operational goal is to maximize long-term growth in book value per share and not quarterly earnings. Fairfax's growth strategy is focused on growing its internal operations and business, in conjunction with friendly acquisitions. Between 1985 and 2005, book value per share has increased 100-fold from \$1.52 to \$151.52. This focus on long-term growth has led Fairfax to eschew promotion and publicity, in contrast to many companies that have been criticized for promoting their stock and neglecting their companies' operations. Fairfax has instead tried to let its results speak for themselves.

76. Fairfax began in 1985 with one small trucking insurance company in Canada with Cdn\$14 million in premiums and Cdn\$10 million in shareholders' capital. Since that time, Fairfax has built three substantial, disciplined, underwriting-focused insurance and reinsurance companies and a fledgling insurance business in Asia. Fairfax has an outstanding investment team with a proven track record over the long-term and the ability to invest opportunistically anywhere in the world.

77. Fairfax was founded, and continues to be led, by V. Prem Watsa ("Watsa"), the President and CEO. Watsa was born in Hyderabad, India and moved to London, Ontario in 1972. In 1985, an investment group controlled by Watsa purchased control of Markel Financial Holdings, whose sole asset was a virtually bankrupt Canadian-based specialist trucking insurance company. In 1987, the company was renamed Fairfax, short for "fair, friendly acquisitions." Throughout the late 1980s and early 1990s, Fairfax bought a number of property and casualty insurers and restructured their operations. By 1993, Fairfax had over Cdn\$1 billion in assets.

Watsa maintains effective voting control of Fairfax, but has limited his total compensation to Cdn\$600,000 each year, with no bonus or other profit participation and no participation in any equity plans (other than the employee payroll share purchase plan) or other equity incentives. This allows Watsa's status as the company's largest voting shareholder to align his interests directly with those of Fairfax investors. In fact, Watsa currently has no material business interests or investments outside of his shareholdings in Fairfax, with the result that his net worth is substantially made up of his investment in Fairfax.

78. Fairfax takes its obligation to provide disclosure to its shareholders very seriously, and in circumstances where it is necessary to convey negative news, Watsa is straightforward and blunt in his assessment of the company's performance, telling investors directly when things have not gone as planned. For example, in the 2005 Annual Report, Watsa wrote that while Fairfax had built a great roster of operating companies, it had not recently achieved the desired results: "The last seven years have been very disappointing to me personally, to the management of the company, to our Board and of course to you our shareholders." This direct and plain discussion of the state of Fairfax's business, and the transparent and sound business plan, have attracted a loyal group of shareholders to Fairfax. As a result, its stock is very thinly-traded, with an average daily volume on the New York Stock Exchange of only approximately 165,000 shares traded, with a significant portion of that volume attributable to short sales.

79. Fairfax's insurance business is operated by a number of operating companies, which are decentralized and run by their respective presidents, except for performance evaluation, succession planning, acquisitions and financing, which are done by or with Fairfax. Complete and open communication between Fairfax and its subsidiaries is standard operating procedure at Fairfax. Share ownership and incentives are encouraged throughout the group in





83. In 2005, C&F's net premiums written were \$866.9 million. At year-end 2005,

C&F had capital of nearly \$1 billion and had 1,015 employees. C&F is focused on underwriting profitability: its average combined ratio<sup>1</sup> in the past four years is 105.2% (93.0% on an accident year basis excluding the 2004 and 2005 hurricanes) and it has earned an average return on equity since acquisition in August 1998 of 8.3% (at the insurance company level). C&F's debt is registered with the SEC, and it therefore has access to financing in the capital markets and consequently has substantial financial flexibility.

84. Based on the experience and underwriting expertise of its management, C&F, through its operating subsidiaries, writes new lines of business and expands existing classes of business depending upon market conditions and expected profitability; offers insurance products designed to meet specific insurance needs of targeted insured groups and underwrites specific types of coverage for markets that are generally underserved by the industry.

**b. Northbridge Financial Corporation**

85. Northbridge Financial Corporation ("Northbridge"), based in Toronto, Canada, provides property and casualty insurance products through its operating subsidiaries.

Northbridge is one of the largest Canadian commercial property and casualty insurers and writes insurance primarily in the Canadian market. In 2005, Northbridge's net premiums written were Cdn\$1,188.5 million and, at year-end, Northbridge had capital of Cdn\$1,026.8 million and had 1,573 employees. Shares in Northbridge are publicly-traded on the Toronto Stock Exchange, and, as of year-end 2005, Fairfax owned 59.2% of the outstanding shares. Northbridge is focused on underwriting profitability: its average combined ratio in the past four years has been 92.7% and it has earned a 16.5% return on equity over 20 years at the insurance company level.

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<sup>1</sup> "Combined ratio" is a combination of the claims ratio and the expense ratio. A combined ratio below 100% generally indicates profitable underwriting prior to the consideration of investment income.

Moody's and Dominion Bond Rating Service.

companies are rated by several rating agencies, including A.M. Best, Standard & Poor's, companies, and its own distribution of companies across its scale. Fairfax and its operating companies. Each has its own rating scale, its own rating standards, its own population of rated companies. A number of independent agencies rate the financial strength of insurance

## 2. The Critical Rating Agency Role

the four years since 2001, the year in which it went public, of 11.1%. basis, excluding the 2004 and 2005 hurricanes) and it has earned an average return on equity for its average combined ratio in the past four years has been 102.8% (86.6% on an accident year 2005 of \$2.6 billion and net premiums of \$2.3 billion. It is focused on underwriting profitability: reinsurance companies in the world, Odyssey Re has a global franchise with gross premiums in of year-end 2005, Fairfax owned 80.1% of the outstanding shares. One of the largest broker employees. Shares in Odyssey Re are publicly-traded on the New York Stock Exchange, and, as 87. At year-end 2005, Odyssey Re had capital of over \$1.5 billion and had 592

Exchange. Odyssey Re operates its business through its principal operating subsidiaries. Singapore and Latin America. Odyssey Re is a public company, traded on the New York Stock insurance business, with principal locations in the United States, Toronto, London, Paris, Stamford, Connecticut, underwrites treaty and facultative reinsurance as well as specialty 86. Odyssey Re Holdings Corp. ("Odyssey Re"), a Delaware corporation based in

## c. Odyssey Re. Holdings

it has had a weighted average annual redundancy of 4.8% on an accident year basis. with no leverage. In addition, it has an admirable reserving track record: over the past ten years,

business through a much more ambitious campaign of disinformation and dirty tricks. Enterprise members would reap enormous profits; and a longer-term strategy to cripple Fairfax's

that would create an immediate and dramatic drop in the price of Fairfax stock from which Project contemplated a short-term component based on a highly negative Morgan Keegan report

misleading equity research. This campaign was dubbed the "Fairfax Project." The Fairfax aggressive short-selling campaign to be driven by disinformation and corrupted and materially

Exchange. At the time, the Enterprise members collaborated with Gwynn in developing an 91. In 2002, Fairfax announced its intent to apply for listing on the New York Stock

### C. The Relentless Criminal Short-Selling Attack on Fairfax

ensure that the rating agency in question has an accurate picture of the business. and its operating companies to promptly discuss the inaccuracies with the rating agencies and to

inaccuracies appear in reports issued by ratings agencies, it is the policy and practice of Fairfax

agency ratings to the businesses of Fairfax and its operating subsidiaries, in the event that have a full and accurate picture of the company's business. Also, as a result of the importance of

including Fairfax and its operating companies, work with the rating agencies to ensure that they

90. As a result of the reliance that customers place on agency ratings, insurers,

making it impossible for that insurer to write new business and driving it into "runoff."

potential to have an immediate and catastrophic effect on an insurer's business, effectively relationships with an insurer that possesses a subpar rating. A severe ratings downgrade has the

agency will often cause customers to divert underwriting business to competitors and to avoid

to pay potential claims, now and many years in the future. A diminished rating from a rating an insurer's most important asset is the confidence its customers have in the ability of the insurer

businesses of Fairfax and its operating companies. Due to the nature of the insurance business,

89. The views of the ratings agencies are critical to the success and viability of the

1. The Short-Term "Fairfax Project"

92. On December 16, 2002, Fairfax confirmed in a press release that its application for NYSE listing had been approved and the company would be listed on December 18, 2002. Immediately upon listing, Enterprise members began shorting the stock aggressively. In order to facilitate the rapid accumulation of their short positions, Enterprise members listed (without any notice to or desire on the part of Fairfax) Fairfax shares on the Berlin Exchange, which they used to circumvent United States restrictions on short-selling. In addition, market makers working with Enterprise members permitted them to engage in substantial short-selling even though no shares could be located to borrow or reasonably be expected to be located. In the first four weeks of trading on the NYSE, short-selling accounted for as much as almost 60% of the trading volume and the price declined \$14 or 15%. By January 14, 2003, there were an astounding two million Fairfax shares sold short.

93. After the members of the Enterprise had accumulated their desired short positions, stories fed by the Enterprise members began appearing in the media echoing the materially misleading and unfounded criticisms the Enterprise had developed with Gwynn. Immediately thereafter, on January 16, 2003, Gwynn initiated coverage on Fairfax with an "underperform" rating in a report that contained the most incredible materially misleading and unfounded criticisms, and ignored, dismissed, or diminished all positive and mitigating facts.

94. By way of example, Gwynn's January 16, 2003 report contained, among others, the following materially false, misleading, and completely unfounded assertions:

- Fairfax was \$5 billion under-reserved, when in fact no reasonable application of a credible reserve-setting methods would support anything remotely close to such a deficiency. Gwynn's calculation was based on a methodology that he understood was invalid and in violation of the most fundamental reserve setting practices.

95. Gwyn's report accomplished the Enterprise's intended objective. Promoted heavily by the Enterprise and its operatives, the report's drastic assertions and their dire implications garnered extraordinary attention and equally great concern. Fairfax's stock plummeted 32% to an 8-year low on record volume 14-times higher than normal. By January 30, 2003, Fairfax stock had plummeted further to approximately \$58 on substantially above-average trading in the two weeks after the Enterprise issued the Gwyn report. Industry and financial press sources uniformly cited Gwyn's report, and particularly his astounding assertion that Fairfax was \$5 billion under-reserved as the sole precipitating cause for this steep decline on enormous volume.

or mitigating facts.

assertions created was substantially aggravated by Gwyn's completely omission of all positive

The grossly distorted picture of Fairfax that these and other outright false and unfounded assumptions created was substantially aggravated by Gwyn's completely omission of all positive

- Fairfax's shareholder equity was negative \$4.4 billion, which was a number no credible methodology based on reasonable assumptions would support, and which Gwyn based on what he understood were unreasonable assumptions and invalid pseudo-methodologies.
- Fairfax's reported goodwill of \$180 million as of September, 30, 2002 was actually \$0 and would not survive the FY 2002 year end audit. No credible methodology based on reasonable assumptions would support these assertions, and Gwyn instead used what he knew were unreasonable assumptions and invalid pseudo-methodologies.
- Fairfax had no likelihood of securing realized gains for the 2003-2004 period, which was an assertion for which there was no reasonable basis and for which Gwyn understood there was no reasonable basis.
- Fairfax's reported deferred tax asset of \$1.079 billion was unrecoverable and thus worthless, which was an assertion for which there was no reasonable basis and which Gwyn understood lacked a reasonable basis.
- Fairfax failed to provide Mr. Gwyn access to management when in fact Mr. Gwyn wrote his report without making any genuine effort or request for access to management or attempts to verify his grossly unreasonable assumptions.

2002 as did the industry when in fact it had strengthened them by \$133 million; (b) failed to doing so was economically better; (b) failed to strengthen asbestos and environmental reserves in refinance debt obligations when in fact it had merely elected to redeem those obligations because unfounded assertions contained in the report, Gwynn claimed that Fairfax (a) had been unable to despite Fairfax's reported record fiscal year. Among other material false, misleading and

98. Accordingly, on February 11, 2003, Gwynn issued another highly critical report

**Gwynn's February 11, 2003 Report**

campaign directed at the far more ambitious and lucrative objective of causing Fairfax to fail. rebounded, understanding that Gwynn's January attack was just the beginning of an open-ended shares, they had also retained substantial short positions and added to them as the stock

97. Although Enterprise members had covered substantial portions of their shorted

**The Long-Term Fairfax Project**

price drop.

only reasonably be construed as the product of an intentional attempt to cause a massive stock reasonableness -- is simply not credible. Instead, such egregious inaccuracies in this context can

professional analyst initiating coverage with estimates he knew were beyond the pale of TIG subsidiaries. This excuse -- offered by a purportedly seasoned, careful, and unbiased understated by over \$2 billion. As an excuse, Gwynn claimed he erroneously double-counted wildly inflated by over \$2 billion or (40%) and his shareholder equity estimates were wildly January 30, 2003, Gwynn released a report admitting that his estimated reserve deficiencies were Fairfax Project substantially complete, and unable to defend his absurd reserve estimates, on their short positions for enormous short-term profits. With the short-term component of the

96. With the stock price drop, Enterprise members began covering large portions of

101. Nevertheless, Gwynn immediately issued a report containing additional material false, misleading, and recklessly unfounded statements designed to stoke the uncertainty over Fairfax's liquidity that the Enterprise had already manufactured. In addition to repeating and affirming his prior misleading and unfounded assertions, Gwynn's March 10, 2003 report made, among others, the following false, misleading and unfounded assertions designed to maintain and aggravate the unfounded liquidity concerns he and the Enterprise had manufactured:

100. Fairfax's stock price recovered leading up to the release of its annual report on March 10, 2003. As always, the 130-page single-spaced report provided enormous detail on the company's material business issues and confirmed the company's record fiscal year in 2002 and its sufficient cash and available credit to meet obligations, even without the receipt of the dividends Gwynn had previously incorrectly speculated would not be available to Fairfax.

**b. Gwynn's March 10, 2003 Report**

99. Enterprise members used Gwynn's unreasonably negative and materially misleading analysis to pressure shareholders, analysts, and rating agencies into selling their shares or downgrading their ratings. In February, despite Fairfax's record year, Standard & Poor's reduced Fairfax's credit rating to BB from BB+ and the credit rating of its TIG subsidiary from BB to BB-. Fairfax Stock experienced another substantial decline in heavy trading action over the course of the next two weeks to arrive at a new low by February 27, 2003.

performance.

Gwynn applied to Fairfax's reported financials for the sole purpose of diminishing its strong and (c) had suffered a \$17.69 million annual loss instead of a record gain based on readjustments implying that this was not achievable when in fact it was and would be achieved by quarter end; secure the reinsurance needed for the release of \$300 million in TIG assets held in trust,



103. Gwynn's unfounded alarms concerning Fairfax's liquidity were exposed on April 11, 2003 when Fairfax announced it would conduct an initial public offering of its

**d. Gwynn's Unfounded Scaremongering Is Exposed**

- Fairfax should write-off as worthless Cdn\$293 million in subsidiary Lindsey Morden goodwill even though he lacked any reasonable facts or rationale for this assertion.
- Fairfax subsidiary ORC was late in filing its 2002 financial statements even though this was not true and, even if it were, it would be immaterial to the investment value of Fairfax.

unfounded assertions and adding the following:  
 another report on April 3, 2003 repeating and reaffirming his previously false, misleading, and 10, 2003 report, Gwynn continued his dogged defense of the Enterprise's scheme by issuing 102. As Fairfax's stock price began to recover from the negative impact of his March

**c. Gwynn's April 3, 2003 Report**

- Fairfax had significantly under-reserved for asbestos and environmental liability when in fact no estimate using reasonable assumptions and a credible methodology would have supported his assertions, which Gwynn understood and ignored. In addition, the potential A&E exposure to which Gwynn referred was also covered by reinsurance, thereby further demonstrating the speciousness of Gwynn concerns.
- Fairfax's ability to collect its reinsurance cover from Swiss Re was actually not backed by Swiss Re but by a "non-recourse" subsidiary of Swiss Re, thereby implying the reinsurance was not backed by a credit-worthy underwriter when in fact this reinsurance was backed by European Reinsurance Co. of Zurich, a special-purposes vehicle of Swiss Re that had an A+ credit rating and Fairfax had funds held collateral.
- Fairfax was not sufficiently liquid to survive 2003 when in fact by any reasonable analysis it had sufficient existing liquidity and ready access to more than enough liquidity to meet all its existing and reasonably contemplated obligations in 2003.

107. The enormous and sustained short interest that existed in Fairfax stock since it listed on the NYSE has been comprised of initial Enterprise members who retained, traded in and out of, and, in some instances, increased their short positions in the long-term objective of devastating Fairfax's business and thereby its stock price. In addition, Enterprise members were encouraged to remain in the scheme because the high price of Fairfax stock, the enormously

106. Over the remainder of 2003 and 2004, Fairfax repeatedly and in increasingly strong terms demonstrated that the Enterprise's grossly exaggerated warnings and disinformation about Fairfax's purportedly dire financial condition were unfounded. As a result, during this period Fairfax stock remained consistently above \$100 and climbed steadily to almost \$170 by the end of 2004. Throughout this period, however, short interest remained above 1.5 million shares and climbed steadily in the latter half of 2004 to almost 2.7 million shares.

**Gwynn's Dogged Defense of the Enterprise's Short Position** e.

105. Thereafter, Gwynn's unfounded liquidity concerns and other scaremongering were further discredited on May 30, 2003 when Fairfax announced a \$300 million debt offering by Crum & Forster. That offering closed on June 5, 2003, by which time the stock had rebounded to \$152 and would continue to climb to \$174 by July 14, 2003.

104. Similarly, on May 2, 2003 Fairfax announced first quarter results that included a net increase in earnings to \$154.6 million, an 18.6% increase in net premiums written (\$1.6 billion), a combined ratio of 98.1%, and realized gains on investments totaling \$228.2 million for the first quarter of 2003. By May 21, 2003, Fairfax stock had rebounded from a low earlier in the year of \$47 to \$87.

completed.

Northbridge subsidiary, which was successfully priced on May 21, 2003, and thereafter

improving financial performance and stock price with a frenzied publication rate far in excess of

Gwyn would issue increasingly negative and misleading reports throughout this period of

- Gwyn intentionally ignored the various elements of the first quarter results that plainly contradicted and warranted revision to his prior extreme predictions of doom.
- Gwyn raised unfounded concerns about the ability of Fairfax's Northbridge subsidiary to sustain the level of dividend and interest income achieved in the first quarter without any reasonable basis or honest belief.
- Fairfax's business strategy of acquiring troubled property and casualty companies was flawed and its prospects weak because of this flawed model when in fact Fairfax had not made a significant acquisition in more than four years and had built an excellent platform for growth by any reasonable measure as evidenced by the first quarter results.
- Fairfax's Northbridge IPO filings failed to disclose its reserving details or asbestos reserves, when in fact Fairfax had always reported the Canadian reserve development tables in the annual report, the reserve development over the last decade had been favorable, and there was no disclosure of asbestos reserves by subsidiaries because they did not have any significant asbestos reserves.

misleading, unfounded, and distorted assertions:

misleading and unfounded analysis concerning Fairfax and added the following equally

2003, Gwyn issued a report on May 6, 2003 that repeated and reaffirmed his previous

109. For example, as Fairfax stock was rebounding from \$50 to \$96 in the spring of

reports.

and facts contradicted his relentless drumbeat of false, misleading, and recklessly unfounded

siren on Fairfax no matter how badly events discredited his prior predictions or current events

difficult short position to exit, Gwyn was left with no choice but to continue to act as a negative

hedge fund clients, and with those major clients carrying enormous exposure in an extremely

108. For his part, having committed to support the short-selling interest of his major

without enormous losses.

large short position, and the unavailability of shares to purchase made it very difficult to cover

outstanding short position would become near impossible.

stock price would go up, and the already extreme difficulty in attempting to cover the huge or near fatal collapse; the Enterprise's fear mongering would become less and less effective; the Fairfax's strengthening position made it increasingly less likely that it would experience a fatal stabilization and turnaround placed short-selling Enterprise members under immense pressure: quarters that year likewise showed financial strength. The mounting evidence of Fairfax's the doomsday scenario upon which the long-term "Fairfax Project" was based. Following further confirmed its financial stabilization and turnaround and continued to erode enormously

112. In February 2005, however, Fairfax announced results for the 2004 fiscal year that

inception in January 2005 and every day thereafter until a brief hiatus in July 2005.

almost 3 million shares. Moreover, Fairfax was listed on the SEC's Reg. SHO list from its

111. By the beginning of January 2005, short interest in Fairfax had increased to

#### **D. The Enterprise's Early 2004 Efforts to Limit Their Risk**

opposed to its peers.

Fairfax stock, which throughout this period traded at a substantial discount to book value as during 2004, it did nevertheless manage to artificially and dramatically suppress the price of provide the Enterprise with the opportunity to cover at anything other than a substantial loss

110. Although Gwynn's relentlessly negative series of reports on Fairfax did not

2004.

October 5, 2004, October 29, 2004, November 1, 2004, November 3, 2004, and November 24, August 9, 2004, August 11, 2004, August 20, 2004, August 27, 2004, September 8, 2004, October 10, 2003, November 26, 2003, February 8, 2005, February 26, 2004, March 12, 2004, any other company he covered, including reports issued on May 21, 2003, August, 20, 2003,

101.9%, 100.2%, and 102.5% in the overall commercial lines industry. The report asserted that underwriting at the core operating facilities was weak, when by any reasonable measure the underwriting was strong as evidenced by combined ratios for these core operations of 97.6%, 97.5%, and 107.6% in 2003, 2004, and 2005 respectively compared to combined ratios in the same years of 100.6%, 106.7%, 138.5% in the overall reinsurance industry and of 101.9%, 100.2%, and 102.5% in the overall commercial lines industry.

others, the following:

materially false, misleading, and recklessly unfounded in numerous respects including, among

broadcast their concerns which he did in a highly critical March 2, 2005 report that was

115. In addition, the Enterprise also used Fitch rating agency analyst Lawless to

## 2. The Lawless Contribution

covered company.

overwhelmingly negative -- than his average and more than double his next most frequently

Going forward, Gwyn would issue three times more reports on Fairfax from 2005 to 2006 -- all

an after tax basis when in fact losses had increased only approximately \$21 million after tax.

assertions that Fairfax's hurricane losses grew approximately \$67 million in the fourth quarter on

Gwyn issued a highly negative report stating among other materially inaccurate and unfounded

Fairfax. Thus, for example, in response to the 2004 year end results released in February 2005,

inventing others, and consistently attempting to neutralize the increasing positive news out of

his clients' enormous short positions, rebroadcasting the Enterprise's standard criticisms,

114. As always, Gwyn continued his relentless litany of negative reports in support of

## 1. Gwyn's Continued Support

sufficiently low stock price and high supply to profitably cover.

destroy Fairfax's reputation and thereby its ability to operate effectively and thereby generate a

no viable and attractive exit strategies. Accordingly, the Enterprise redoubled its efforts to

113. However, given the price levels and lack of share supply, Enterprise members had

- The report asserted that Fairfax's various successful efforts to provide liquidity in the prior fiscal year by raising money would leave it without that ability in the current fiscal year when in fact by any reasonable measure Fairfax retained sufficient financial liquidity and flexibility.
- The report criticized the sufficiency of Fairfax's disclosures concerning related party transactions, when Fairfax's public disclosures included separate financial statements and 10-K's for not only the Fairfax holding company but also its Northridge, C&F, and Odyssey Re subsidiaries each of which included unusually lengthy and detailed disclosures of all material transactions including related party transactions.
- The report asserted that Fairfax's investment gains for the prior fiscal year were inconsistent sources of income, when in fact Fairfax had realized investment gains of \$275 in 2004 and had a twenty year average total return of 9.3%.
- The report accused Fairfax of establishing ORC Re Limited in 1998 for the express purpose of facilitating finite reinsurance covers, when in fact, as previously and fully disclosed, it was established to serve as the entity through which Fairfax would provide financing for its US acquisitions, would consolidate its European run off portfolios, and would provide protection for the US subsidiaries upon acquisition (ORC Re did subsequently provide finite reinsurance covers for the benefit of Fairfax group operating companies).
- The report accused Fairfax of using inter-company reinsurance transactions with NSpire Re to inflate dividends to Fairfax by over \$500 million, when in fact the reinsurance transactions accounted for none of the dividend to Fairfax. Indeed, those reinsurance transactions resulted in losses to NSpire Re and provided no dividend capacity. Instead, the \$500 million dividend was generated by interest NSpire earned on its financing of US acquisitions.
- The report criticized Fairfax for focusing on acquisitions and investments instead of operating the underlying businesses, when in fact Fairfax's approach to decentralized management of the various operating entities and centralizing investing and strategic planning had resulted in operating company premiums more than doubling in the hard market years of 2002-2004 inclusive while Fairfax produced enormous investment gains.
- The report asserted that Fairfax was more vulnerable to commercial lines price softening and a shifting to higher rated insurers, when in fact Fairfax's core insurance underwriting performance was outstanding and sustained by any reasonable measure, including in areas impacted by hurricanes.
- The report asserted that Fairfax's cost of float was in excess of 15% which reflected cumulative underwriting losses of \$4.5 billion, when in fact this calculation improperly included in the cost of float calculation expenses incurred by subsidiary Lindsey Morden that had nothing to do with float cost. Moreover, even if those expenses were properly included in a float costs

117. Indeed, later Fitch reports prepared after Lawless departed noted the materiality of these positive facts. Relying on these facts, those reports describe Fairfax's demonstrated financial flexibility as a key company strength, and expressed confidence that Fairfax retained such flexibility going forward. Similarly, those reports acknowledged that Fairfax was generating strong operating earnings with combined ratios below 100%. In addition, the reports praised Fairfax's 2004 debt restructuring as a substantial improvement. Finally, the reports

116. The Fitch analyst Lawless produced was not only materially false, misleading, and recklessly unfounded in its affirmative criticisms, it inexplicably omitted from its analysis numerous highly material positive facts that could only have been ignored if the objective was to present a highly skewed negative analysis. For example, Lawless ignored Fairfax's (a) improved cash flow and liquidity after reducing its debt maturities over the following five years, (b) reduced funding of future premiums on existing finite reinsurance contracts, (c) reduced risk of further reserve development, and (d) demonstrated ability to access subsidiary cash in arms-length transactions.

- The report asserted that the company's aggressive debt restructuring and \$300 million equity placement reflected a lack of confidence in the operating companies, when in fact Fairfax had always maintained significant cash at the holding company and disclosed for decades this paramount policy.
- The report asserted that Fairfax had not disclosed material information related to its Swiss Re contract and certain ceded losses in its annual report or in that of its subsidiaries, when in fact the annual report disclosed in detail precisely that information and none of subsidiaries were involved in those aspects of the Swiss Re contract.
- The report asserted that Fairfax inadequately disclosed credit facilities in FFH Gibraltar and FFHL (Luxembourg) when in fact there were no such facilities.

deficiencies, unfunded APH, excessive reinsurance recoverable leverage, and excessive finite

claiming, among other false and misleading things, that Fairfax had enormous reserve condition and the short-selling "squeeze." For example, on May 2, 2005, Gwynn issued a report for the purpose of suppressing the substantial price increase resulting from Fairfax's improving 120. During this covering period, Gwynn frantically issued four highly critical reports

while the shares sold short interest declined to just above 2 million shares. the Reg SHO list for the first time. By August 4, 2005, the stock price further increased to \$179 shares sold short declined to approximately 2.2 million shares, and Fairfax was removed from SHO threshold list every day since its inception. On July 12, 2005, the stock price was \$172, \$130, there were approximately 2.75 million shares sold short, and Fairfax had been on the Reg these efforts appeared plainly in the trading behavior. On April 29, 2005, the stock price was Enterprise members or new Enterprise members they recruited for these purposes. The impact of

hedging transactions, and shifting portions of their positions to other less exposed existing exposure began covering portions of their positions to the extent they could, entering into began taking steps to minimize their increasing exposure. Enterprise members with the largest the difficulty the Enterprise was having in the face of that strengthening, Enterprise members 119. As a result of the further evidence of Fairfax's stabilization and turnaround, and

### **3. The Enterprise Seeks to Limit Its Risk**

important constituencies.

participate in the efforts to talk down Fairfax to securities analysts, journalists, and other 118. In addition to this formal report, Lawless would, going forward, actively

underwriting discipline.

acknowledged that Fairfax had turned the corner with a management commitment to



reinsurance. In addition, Gwynn claimed that Fairfax's combined ratio for the quarter was almost 115%, which was a figure that was demonstrably untrue under any accepted and faithfully applied combined ratio calculation methodology. Indeed, to arrive at this figure Gwynn, among other things, included in his calculation certain subsidiary expenses that were not relevant to the combined ratio and even then excluded fees earned associated with those expenses.

121. In addition, to further the Enterprise's objective of manufacturing fear about, and actually instigating regulatory and other legal action against, Fairfax, Gwynn commented on Fairfax's recent receipt of an SEC subpoena concerning finite reinsurance with the wild speculation, "I would expect more subpoenas to come," and rationalized this unfounded statement based on the further recklessly false and misleading assertion that Fairfax was involved in "the egregious use of finite reinsurance."

122. In a July 13, 2005 report, Gwynn added to his previous recklessly false and unfounded assertions, the equally false and unfounded assertion that subsidiary Odyssey Re was grossly under-reserved for the periods 1997-2001 based on a generalized industry comparison that did not take into account far more predictive data. Gwynn adopted the least rigorous and informative methodology because he understood it provided the most negative -- and most distorted -- picture of Fairfax. Further evidencing Gwynn's agenda, he also omitted to mention that during the same period, Odyssey Re was one of the few insurers not to increase its exposure, which would have constituted a substantial mitigating factor to the results of his bogus analysis. On August 6, 2005, Gwynn warned "If you are a shareholder of Fairfax, your first question would probably be: Have the true economics of the business been clouded by accounting gimmicks, including finite? There's no doubt in my mind, that Fairfax has done exactly that."

**E. The Renewed Fall 2006 Attack**

**1. The SEC Subpoenas**

123. On the morning of September 6, 2005, Bernstein called one of Fairfax's officers

seeking comment on the SEC's subpoena to Fairfax concerning finite reinsurance. At the time,

Fairfax had received no such subpoena, and Bernstein was so informed. The next day, however,

Bernstein's question proved remarkably prescient when Fairfax received an SEC subpoena.

Moreover, the short position in Fairfax increased substantially in the lead up to the announced

SEC subpoena. On September 15, 2005 Fairfax returned to the Reg SHO list, where it has

remained every day since.

**2. The Bogus October Reports**

124. On October 7, 2005, the Enterprise through Contogouris, disguised as M14

Reconnaissance, issued an "FHH Morning Note" to Fairfax shareholders, analysts, rating

agencies, and others. The report failed to disclose that it had been prepared and was being

disseminated by Contogouris on behalf of a group of short-selling hedge funds for compensation

in direct violation of Section 17(b) of the Securities Act of 1933. The report repeated various

materially false, misleading, and recklessly unfounded assertions the Enterprise was

disseminating about Fairfax including the following:

- "the company's financial position was weak"
- its reported financial numbers were false and inconsistent with its "real" financials
- Fairfax's announced \$300 million offering demonstrates it has "a brazen commitment to self-dealing"
- "MATERIAL INFORMATION ABOUT THE GROUP'S FINANCES WAS WITHHELD FROM THE STREET AHEAD OF THIS OFFERING"
- Watsa is the only Fairfax board member
- Fairfax's \$300 million offering was like the drawing down on revolvers that occurred as part of the Enron fraud

media when they are being investigated as opposed to from the government? And will the media

dropped Fairfax stock over 8% and questioned "How is it that companies find out from the Stocklemon.com's characterization. Instead, it noted that the Wall Street Journal story alone

126. In fact, however, the cited blog said nothing remotely similar to

expressed on this White Collar Crime Blog:"

subpoena from the U.S. Attorney", and claimed that the "lunacy of these statements was best

the investigation, Fairfax was quick to put out a PR stating only that they did not receive a

Journal article in asserting that "[I]nstead of acting professionally and describing the details of

might be the final blows to Fairfax Financial", referenced the October 10, 2005 Wall Street

stated "Stocklemon believes that the current circumstances regarding investigations and claims

Financial Be the Next Refco????". Echoing exactly the Enterprise's standard script, the report

Stocklemon.com issued a report entitled "Where There's Smoke There's Fire . . . Could Fairfax

website Stocklemon.com, which is a regular mouthpiece for short sellers. On October 21, 2005,

125. The Enterprise followed up these developments with a report by the internet

### 3. The Stocklemon.com Report

- Fairfax raised capital because all its other assets were already pledged or double pledged for loans that were borrowed and moved through off-shore, off-balance sheet vehicles
- Fairfax conducted a private \$300 million offering in order to conceal material nonpublic information about the true nature of its pledged assets and "selected" the recipients of the offering based on their likelihood to accept Fairfax's material non-disclosures or because they were selectively informed and thereby were "trading on inside information" because they had "some quid pro quo in hand."
- Major shareholder Southeastern Asset's chief was not a smart investor but "too stubborn to consider objective analysis" as evidence by the fact he "rode Fleming Waste Management in the ground"; and "FFH will be yet another example of this:"

128. Stocklemon.com likewise rebroadcast the Enterprise's standard attack on Watsa personally. The report asserted falsely that while Warren Buffet "has a successful track record based on high profile investments that have paid out in the long term, Mr. Watsa has kept most of his investments hidden from his shareholders." It cited two press articles as support for this proposition, although neither article actually provided such support. It then compared Mr. Watsa's practices to those "of Enron and Reeco." As examples of such Enron-like behavior,

127. Stocklemon.com also rebroadcast the Enterprise's various unfounded assertions and offshore dealings. In this regard, Stocklemon.com tellingly linked a document the Enterprise had previously prepared concerning purported "similarities" between Fairfax and the fraudulent failed Australian insurance company HHH.

(emphasis added).

Are they a *target* of an investigation? Are they a *subject* of an investigation? Or are they just a *witness*? What exactly was Fairfax told? And if they are being investigated, should the government be issuing a target letter? Is Fairfax trying to hide information from its investors, or is this a situation that the government is not being up front with the company? Or is this a situation that the government is trying to pressure the company to provide information and individuals for their investigation? *The government has the ability to place enormous pressures on companies during an investigation. On the other side, the release of information of a pending investigation can be detrimental to a company. Is there a better way of doing things here?*

questioned:

prove correct here?" Likewise, the specific blog section hyper-linked in the Stocklemon.com

Dear Father, The attached documents are being sent to you out of my concern for the Church's finances. I am extremely sensitive to this as a result of losing a dear friend Father Richard Bourgeois, an enlightened Benedictine Priest formally of the Collegio D'Anselmo, which as you may know is the Cardinal College of the Vatican. On September 4, 1999 the fugitive Marty Frankel, who perpetrated a massive fraud on the Catholic Church, was arrested at the Hotel Prem in Germany. Interestingly a review of your most recent "Talk in the Pews" shows Mr. Watsa as the Chairman of the investment

City. The package contained a letter addressed to Reverend Parker stating:

return address and phone number of Saint Patrick's Roman Catholic Cathedral in New York at St. Paul's Anglican Church in Toronto. The package purported to be from a "P.Fate" with the (i) On November 9, 2005 a package was delivered by courier to the Mr. Watsa's pastor

assaults on Fairfax insiders:

access to in various ways. By way of example only, the Enterprise engaged in the following investigate internal e-mail, phone, other insider communications that the Enterprise hoped to gain into providing material non-public information for the Enterprise's trading purposes, and Fairfax executives and personnel intended to erode their confidence in Fairfax, intimidate them 131. At the same time the Enterprise began an aggressive campaign of harassment of

**4. The Stepped-Up Harassment and Pressure of Fairfax Executives and Professionals**

Refco's conduct.

130. "Where there is smoke, there is fire" and further comparisons to Enron and skepticism." The report concludes with a summary of the Enterprise's fear-mongering mantra -- of Fairfax Financial and therefore is negligent in fulfilling SAS no. 99 requiring professional assertions "that Price Waterhouse has not exercised any professional skepticism in the auditing 129. Stocklemon.com also rebroadcast the Enterprise's recklessly false and unfounded

the Stocklemon.com report regurgitates the Enterprise's recklessly false and unfounded accusation that Fairfax's Luxembourg subsidiary was being used as a vehicle for fraud.

## SECURITIES FRAUD, OTHER CHARGES IN 8-COUNT INDICTMENT:

“Monty Gardener” e-mailed Watsa stating “EX\_REFCO CEO BENNETT CHARGED WITH

(iii) For the same purposes, on November 10, 2005, Contogouris using an alias

Frankel in the event he vacated his post as financial advisor for his church.

was critical to Fairtax’s success, and instigating negative press stories comparing Watsa to information to use in their trading, distracting Watsa and other high level personnel whose focus and others who may see this e-mail -- into providing the Enterprise with material non-public activities, facilitating the Enterprise’s efforts to intimidate insiders -- including Watsa’s assistant undermine Mr. Watsa’s reputation for integrity and honesty, generating suspicions about his prepared by Bernstein at Exis’s New York office, and sent from those offices in order to to Mr. Watsa at his office. These materials left with Rev. Parker and e-mailed to Mr. Watsa were (ii) The same day these same documents delivered to Reverend Parker were e-mailed

sensational activities.

Catholic priest, and sordid details of Frankel’s sadomasochistic and group sex and other schemes, his fraud on and exploitation of the Catholic Church, the indictment of an elderly million fraud” which detailed Mr. Frankel’s enormous insurance fraud and money laundering Attached to the letter was a 30-page document entitled “Marty Frankel: Sex, Greed, and \$200 confession. God Bless, P.Fate. of the congregation. Be aware Father, be skeptical and ask Mr. Watsa to make to be overlooked by a person such as yourself, who is responsible ultimately for the funds pattern of activities of Mr. Prem are too similar to the course of conduct of Marty Frankel created by Mr. Watsa through his public vehicle Fairtax Financial Holdings Ltd. . . . the schemes perpetuated by Marty Frankel and the massively convoluted paper shuffle surprising; they do not compare to the similarities between the massive money-laundering between Mr. Marty Frankel and Mr. Prem Watsa. While these coincidences are committee of the church. More interestingly are the similarities in the facial features

Fairfax's analysts, rating agencies, shareholders, and select sympathetic journalists. The e-mail

(viii) On December 16, 2005, Bernstein sent an e-mail from a Hotmail account to

on the doorstep with no envelope.

had disappeared into the taxi leaving the same documents that had been left for Watsa that day  
 unidentified man approaching her house from a taxi, but by the time she arrived at the door he

(vii) On December 14, 2005, the wife of a former Fairfax CFO observed an

was left for Watsa.

October 21, 2005 report this exact document was added to that website at or about the time it

dated November 14, 2004 and although the document post-dated the Stocklemon.com's  
 contained a government stamp certifying they were true copies of the originals. This stamp was

financial statements of the company as of March 12, 2003. The Luxembourg documents  
 (Luxembourg) S.a.r.l. audited financial statements for the period December 31, 2003 and the

The package contained 2 copies of the 2004 nSpire Re Financial Statements and FFHL  
 off a package for Watsa, and began conspicuously photographing the reception area extensively.

(vi) On December 14, 2005, an Enterprise member entered Fairfax's offices, dropped

manner.

attempted to question his family about the whereabouts of Watsa and his wife in a threatening  
 (v) On December 12, 2005 two Enterprise members appeared at Watsa's home and

INDICMENT.:

CHARGED WITH SECURITIES FRAUD, OTHERS CHARGED IN 8-COUNT

another e-mail from his alias "Monty Gardener" again stating "EX\_REFFCO CEO BENNETT

she call him to discuss Prem and Fairfax. When she did not return that call, Contogouris sent

(iv) On November 15, 2005, Bernstein called Watsa's executive assistant asking that

house and followed him when he drove away.

(x) On December 18, 2005, Enterprise operatives were parked outside Mr. Watsa's

New York office.

family's personal use? I hope not. Love, Rob." This e-mail was sent by Bernstein from Exis's

stating "Hey, Prem are you using the shareholder's money to fuel the corporate jet for your

(ix) On December 16, 2005, Watsa received an e-mail from a "Robert Rafelson"

violation of, among other things, 17(b) of the Securities Act of 1933 and Rule 10b-5.

hedge fund Enterprise members and did not disclose this relationship in the documents in

Bernstein prepared and sent this document as part of his financial relationship with the

\*

\*

\*

- The Kingsmead transactions were a "Fraud", an "Enron style described fraud", "another Enron-like, off-balance sheet deception", "an international fraud perpetrated on U.S. shareholders, which is similar to Enron's supporting of balance sheet vehicles managed by Andy Fastow and his wife."
- This "fraud" was necessary "for Prem's Fairfax holding company, as it is chronically illiquid and basically insolvent" and Watsa engaged in "deceptions" that were "violations of securities laws" and "criminal" conduct so he could use the Odyssey Re subsidiary as his "piggy bank".
- Fairfax failed to disclose liability associated with the Kingsmead assets when in fact Fairfax made numerous disclosures of this liability in its 2001 Annual Report.

the following false and defamatory statements:

mischacterizing the nature of these assets and transactions, the document made, among others,

involving assets Fairfax acquired in its 1999 acquisition of TIG. In addition to materially

recklessly uninformed manner transactions -- described as the "Kingsmead" transactions --

off-balance sheet deception." The document described in a materially false, misleading and

attached a document entitled "Trevor's Travels: The Kingsmead Fraud -- Another Enron-Like,



(xi) On December 19, 2005, Watsa's executive assistant received two e-mails

directly from "Dick Tracy" attaching a document that was addressed to her at "Fairfax

Financial" or "Whatever It Is Today" and threatened her with the consequences of being involved

in criminal behavior:

The attached documents are being sent to you out of concern for your unwitting

participation in possibly very serious federal crimes committed by Mr. Prem Watsa.

On September 4, 1999, the fugitive Marty Frankel, who had perpetrated a massive

fraud on many people close to him, including the Catholic Church, was arrested at the

Hotel Prem in Germany. First look appears to have a clear connection to Mr. Watsa, if

only by name. Interestingly, a closer look at a picture of Mr. Prem Watsa's facial

features, photo comparison attached herein, shows some disturbingly haunting

similarities between Prem and Marty. No doubt you are aware that Prem wears glasses of

similar shape and size that rest askew on the bridge of his nose like Marty's. . . .

While these coincidences are surprising, they do not compare to the similarities

between the massive money-laundering schemes perpetrated by Marty and the massively

convoluted paper shuffle created by Prem through his public vehicle Fairfax Financial

Holdings Ltd. One has to ask how this unbelievably meteoric rise of this roll up of

garbage insurance companies could happen without Prem's close team working together

to create and maintain a course of conduct that is in fact, a premeditated and sustained

deception of investors. Although one could say over the last year, many close associates

of Mr. Watsa have been sufficiently worried about his behavior and seem to be dropping

off the Fairfax map at a rate that only an insurmountable contradiction [sic] of the Ebola

virus singling out Prem's people could explain otherwise.

Please understand that this behavior will not stand. This pattern of deception that

Prem practices is too similar to that of Marty Frankel to be overlooked. A person such as

you has a lot to lose. No doubt you are aware that those that don't help Prem end up

leaving after years of service with the severance afforded those that work at Burger King

drive thru. Be aware Ms. [name omitted] he will be held accountable. Prem is not above

the law.

Hallelujah!

The letter attached the same thirty-page expose on Mr. Frankel entitled "Sex, Greed and

\$200 million Fraud."

analysts, rating agencies, and sympathetic members of the media that made materially false,

(xiv) On December 28, 2005, Bernstein sent a document to Fairfax's shareholders,

assistant, Bernstein re-sent the same two e-mails and attachments to her again.

and attachments. On December 29 and 30, 2005, after receiving no response from Watsa's

on December 21, 2005 Bernstein resent the two "Dick Tracey" e-mails with the same message

(xiii) When Watsa's assistant did not respond to the various e-mails she had received,

of all electronic identifying information because he understood his conduct to be improper.

was prepared and sent by Bernstein at Exis who attempted to cleanse the e-mail and attachment

The e-mail attached documents regarding Marty Frankel's use of the corporate jet and

Fly Straight Ms. [name omitted];

responsible as a co-conspirator in arranging Mr. Watsa's fleeing of the country.

prosecution. You would likely have knowledge of such an event and could be held

move Mr. Watsa in directing the jet to fly him and his family to India to escape

In particular Ms. [name omitted], please keep you [sic] antenna up to spot any

Fitzpatrick may want to know. See the Conrad Black press of November 18<sup>th</sup> below.

his family members give you with respect to the plane's use. U.S. Attorney Mr.

have. Therefore, it is incumbent upon you to double check any direction Mr. Watsa or

Watsa is even one of them, or if he has pledged, lost or squandered any holdings he may

of them, and not for Mr. Watsa. And as of today it can't be confirmed for sure if Mr.

[name omitted], you work for the shareholders of the Company that own the plane. All

shareholder money to fuel the company jet for personal use is quite serious. You see Ms.

memorized, you should note the U.S. Attorney's frowning upon Mr. Black using

arrangements to schedule the plane for use and in fact probably have the tail number

jet. Operating under the assumption that as Prem's personal secretary you make the

sensitive to issues that regard Mr. Watsa and his family's personal use of the Company's

money for which he was not the custodian. I think that you should be particularly

on allegations of the U.S. Government, that he did not respect third party shareholder's

Recent Press of Conrad Black (another Canadian of dubious reputation) suggests, based

participation in possibly very serious federal crimes committed by Mr. Prem Watsa.

The attached documents are being sent to you out of concern for your unwitting

PREM WATSA AND FAMILY" that stated :

with a re line "PERSONAL USE OF THE FAIRFAX COMPANY CORPORATE JET BY

(xii) On the same day, Watsa's assistant received another e-mail from "Dick Tracey"

the words "coming soon . . ." were appended.

page there was a picture of Watsa, the same altered symbol, and a map of Bermuda under which executives under which appeared the words "Come see where all your money went." On another room." In front of the shredded piece of paper was a distorted photo of Watsa and other Fairfax paper appeared the title of the best-selling book on the Enron scandal "The smartest guys in the "E" to an "F" with the word "Fairfax" substituted for "Enron." On the bottom of the shredded consisting of the image of a shredded piece of paper containing an Enron logo altered from an [www.premwatsa.com](http://www.premwatsa.com), [www.premwatsa.net](http://www.premwatsa.net), and [www.premwatsa.co.uk](http://www.premwatsa.co.uk) with a homepage

(xv) On December 30, 2005, Contogouris created three identical websites

- Watsa was attempting to "prop" up Odyssey Re shares and "mov[ing] them from subsidiary to subsidiary (or related company) to keep the waters muddy" and thereby conceal an underlying money drain;
- "all of ORH shares and everything FFH owns in the United States had been hocked"
- "Using the undisclosed vehicle, FFHL (Luxembourg) S.a.r.l., all the assets of the Fairfax (Gibraltar) Ltd., by extension Fairfax Inc., and by further extension Odyssey Re and subsidiaries are pledged"
- Bermuda and offshore reinsurance subsidiaries, CRC Bermuda and Wentworth, "were being used for purposes to "hide" transactions"
- CRC Bermuda and Wentworth were using \$600M in losses ceded to them by Northbridge to fund European Runoff losses in a manner concealed from insurance regulators using the Luxembourg subsidiary in a "robbing from Peter to pay Paul" scheme concealed by Watsa.
- That this "scam" was being used to also "perpetuate the illusion of a 'transfer of risk' on third party reinsurance transactions like Swiss Re."

unfounded statements:

other things, the document made the following materially false, misleading, and recklessly  
 Odyssey Re stock. The document cites and echoes the recent Reality Check article. Among  
 misleading, and recklessly unfounded assertions concerning an inter-company share transfer of

The websites were then used to disseminate misleading reports and disparaging

accusations concerning Watsa, including his alleged involvement in criminal and unethical

behavior.

(xvi) Between February 14-16, 2006, Fairfax's website experienced six separate

cyber-attacks attempting to hack into the Fairfax server using the same internet service provider as various Enterprise members. Moreover, throughout February, Enterprise members including Bernstein and Contogouris aggressively pursued existing and former Fairfax executives in a desperate effort to develop some information upon which to support their recklessly inaccurate misinformation and theories.

(xvii) In early March, the Enterprise again began disseminating material misinformation

and baseless accusations to Fairfax's auditors, and threatening those auditors with legal action.

For example, on March 2, 2006, an e-mail from Bernstein's alias "Robert Rafael" was received

by PwC auditors stating as follows:

I understand you are looking at restatements of Fairfax Financial Holdings. Please be

advised that it appears that the attached documents show that your firm knew of a

MATERIAL inflation in the financial statements of FFHL (Luxembourg) S.a.r.l. one day before a crucial audit which was used to certify assets that were being pledged for a loan in 2004. To the extent that short sellers have suffered damages in the cost to borrow

shares of Fairfax that have been supported by these materially false financial statements produced by your firm, you may be held liable. It is incumbent on you to reexamine the whole chain of transactions at every off-shore shell company subsidiary as it appears likely that Fairfax has inflated their assets. Please see the attached documents.

The e-mail from Bernstein attached the Luxembourg filings the Enterprise had been

peddling to shareholders, analysts, rating agencies, and journalists and arranged to have posted

on the Stocklemon.com website. Bernstein sent a second e-mail to Fairfax's auditors under the

false identity "Robert Rafaelson" on March 6, 2006.

132. Although the Enterprise's efforts were having a material adverse impact on Fairfax, as evidenced by, among other things, the erosion in its stock price from \$153 on February 1, 2006 to \$133 on April 3, 2006, the impact fell far short of the Enterprise's expectations and, more importantly, far short of what the short-selling Enterprise members needed to cover their short sale without suffering severe losses, let alone reaping the type of profit for which they had been waiting a long time. The Enterprise members understood they required far more convincing and damning material to hope to achieve their goal of "bringing

**F. The Enterprise's Current Attempts to "Bring Down Fairfax"**

(xviii) On March 9, 2006, the General Counsel of one of Fairfax's European subsidiaries informed Fairfax that she had received an e-mail from a [Spyromi4@aol.com](mailto:Spyromi4@aol.com) stating "I am reading about you in the Lawer [sic] News and am stunned by the fact that you are posing next to the largest nose I have ever seen. Being so close to such a nose, one would think the sense of smell would rub off on you. In particular can you smell the very serious negative issues that are facing runoff for Fairfax. Issues which, you seem to have glossed over when meeting with Miss Helen Morris for your article. In fact runoff doesn't seem to be going well at all. Correct?" The e-mail concluded with the ominous "I will be seeing you soon [name omitted]."

(xix) Between March 10-16, 2006, the CFOs of Fairfax and its largest subsidiaries received unidentified e-mails from [Spyromi4@aol.com](mailto:Spyromi4@aol.com); Bernstein called Watsa's assistant to inform her that they knew Mr. Watsa's out of office whereabouts and itineraries; anonymous questions addressed to Watsa and Fairfax CFO Taylor were dropped off at their Odyssey Re subsidiary; and audio clips from Harry Potter and a George Bush speech were left on Watsa's home telephone message machine and the office voicemail of Fairfax's CFO.

135. Realizing that their dated and factually unfounded bag of defamatory accusations were now insufficient, Enterprise renewed their efforts to extract non-public insider information from which they hoped they could spin in ways damaging to Fairfax. For example, on May 31, 2006, Contogouris lied his way past security at Fairfax's RiverStone subsidiary in London,

**1. The Renewed Effort to Develop Convincing Theories**

134. Thus, Enterprise members, including Exis, Sender, Heller, Contogouris, Bernstein and Lawless, ratcheted up their communications with shareholders and analysts, to whom they continued to assert that Fairfax was a fraud like Enron, Retco, and various other known corporate frauds. They also undertook to find another business publication that would be willing to run stories rebroadcasting the theories that had been developed but had failed to get any publications to credibly consider and write about.

133. The Enterprise's revised plan to "bring down Fairfax" was to coordinate (a) a drastic downward manipulation of the price of Fairfax stock through various bogus trading activities; (b) a blitz of wildly alarming rumors of Fairfax's imminent demise; (c) ominous questions to major shareholders from a business reporter working with the Enterprise; and (d) a series of negative articles echoing and endorsing the various theories the Enterprise had developed. The plummeting share price, wild rumors, unnerving journalist questions, and bad publicity were intended to panic major shareholders into selling their shares and thereby causing the stock to plummet on a volume sufficient for the Enterprise to cover as much of its short position as it desired before a final push to destroy the company.

Accordingly, the Enterprise members agreed to an ever more bold and aggressive attack against Fairfax, which they planned to successfully complete by July.

down Fairfax" so they could avoid staggering losses and make this investment profitable.

introducing you to a former high-ranking investigator for the U.S. Government who attached the information at the end of this letter for your reference). . . . I can help by Look to the lessons of Enron and most recently of Escala Group (NASDAQ:ESL; I have its former officers three years from now given the current level of regulatory scrutiny. Take just a minute, sit back and try to view what the world will look like for Fairfax and

that failure to cooperate would result in Ambridge's criminal prosecution:

137. To secure Ambridge's help, Contogouris would offer the explicit and veiled threat

are missing some critical pieces  
out a series of maps, flow charts and related exhibits which I have put together that I feel available to meet with you in London at your earliest convenience. I would like to lay Financial Holdings, Ltd. So I want this to be "fair and friendly" . . . . In this spirit, I am doubt you are aware that these are very critical times for your former employer Fairfax I will try to make this the most respectful letter I can under the circumstances. No

material non-public information to Contogouris by threat and promise. The letter states in part:

a letter on "M14 Reconnaissance" letterhead attempting to induce Mr. Ambridge into providing Fairfax) at the offices of his new employer, Fairfax subsidiary Advent. The envelope contained folder addressed to Fairfax's former CFO Trevor Ambridge (who in fact remained an officer of

136. The next day, June 1, 2006, Contogouris hand-delivered an unmarked manila

abruptly left.

Enterprise). Nevertheless, Contogouris returned unable to substantiate his false statements and

Orleans attorney and to Lawless (who had since left CFRA to work exclusively for the

them to talk. When pressed to back up this statement, Contogouris made a call to his New

RiverStone and that their company was no longer a subsidiary of Fairfax in an effort to coerce

Contogouris falsely informed these executives that Watsa had sold Fairfax's interest in

on the card was that of his apartment in New York City and the phone number was that of Exis.

Situations Research Consultant" with "M14 Reconnaissance" based in New York. The address

reception. Once in, however, Contogouris handed out a card identifying himself as "Special

saying he was a reporter conducting a survey who wanted to leave a card at RiverStone

The document to which Contogouris refers is M14 report on Escala that Contogouris was paid to distribute just as he was the reports he issues on Fairfax and the report likewise nowhere disclosed the financial relationship between Contogouris and the short-selling hedge funds he was promoting by distributing the report in violation of Section 17(b) of the Securities Act of 1933.

bring a Former Special Agent of the Secret Service and FBI . . . uniquely qualified to communicate to you a depiction of how the government works, as well as, give you a clear perception of the magnitude of the investigation and how your association with Watsa may have made you culpable. Furthermore, he can explain to you how different intelligence entities are involved in this case and explain the vulnerability of current and

cooperate in a follow-up e-mail indicating that he intended to:

139. Contogouris played up the danger and Ambridge's exposure if he did not

held against you) with the Department of Justice."

privilege confidentiality and that would negotiate a 'queen for a day' (what you say won't be

you to certain relationships that I have for you to talk to that I can guarantee attorney client

guarantee you immunity. However, I can say with some level of confidence that I can introduce

might be able to avoid a criminal prosecution: "We should meet privately and discuss. I cannot

In addition, Contogouris again made clear that, by cooperating with Contogouris, Ambridge

new job. Contogouris agreed to only communicate with Ambridge through his personal e-mail.

provided Contogouris committed to not contacting him at work because it could jeopardize his

Ambridge responded two weeks later indicating he would be willing to discuss the proposal

138. At the direction of Fairfax's counsel and security/investigative personnel,

"spyromi4@aim.com."

The letter was signed "Spyro" and indicated in a post-script that he could be reached at

who can speak to you with the highest degree of confidentiality."  
all of my materials. . . . I will arrive with the aforementioned former Government person  
the blanks. . . . I can be in London at your convenience over the next several weeks with  
have played some part in your decision to move to London. . . . Please help me fill in  
aloud, "they're on to us!" I cannot help to speculate that a similar thought process may  
the Enron trial testifying that a certain research report led a high ranking executive to say  
straight and get to the bottom of this. . . . I indulge your attention to a recent witness in  
could act as a confidential liaison with current regulators on your behalf to set the record



Ambidge to meet in time for Contogouris to feed this information to the reporter, Contogouris

theories other publications had up to that time declined to write about. In order to force

pieces" that the Enterprise believed would resurrect and revitalize the tired and unfounded

New York business reporter who the Enterprise had convinced to do a series of "investigative

pressed aggressively to proceed because the Enterprise by that time had elected to work with a

claimed family crisis. When Ambidge attempted to reschedule the next meeting, Contogouris

142. An initial meeting was scheduled but then cancelled by Contogouris because of a

make his former government agent available to help insulate him from prosecution.

Contogouris again stressed that, in exchange for information from Ambidge, Contogouris would

architect of the deceptive dissemination of information" and "had violated U.S. Securities laws."

to get the jump on him and consider possible actions and defenses first as I am sure he is the

authorities go after Prem that certainly he will make you the fall guy. And as such you may want

information to a small group of investment clients" and would "show you why . . . that if

141. Contogouris also explained that "What I do for a living is provide highly valuable

options open in telling my story in the event I am ever subpoenaed. Capisce?"

when meeting insiders at companies. You can use your imagination why. Clearly it leaves my

truthful testimony concerning his activities: "I do not stay in hotels under any Christian name

means whereby he might be able to frustrate subpoenas served on him and avoid having to give

requested all future communications be directed. When asked why, he explained the alias was a

140. Contogouris then sent Ambidge an e-mail from "Martin Gardener" to which he

cooperate usually gets the best deal and gets it put behind him or her.

insulate you from prosecution. His experience has been that the person who is first to

with appropriate authorities. Believe me when I tell you it is my best interest to try to

cooperation could possibly lead to immunity from prosecution by putting you in touch

former officers and directors of Fairfax. In addition, he could explain how your

rumors that Watsa had placed his assets in his wife's name and fled the country, Fairfax a series of manipulative trading techniques. At the same time, they flooded the market with providers began to manipulate the price of Fairfax stock down in the second half of June through 144. Consistent with its plan, the Enterprise in concert with various trading and broker

### 3. The Enterprise June Attempt to Exit

contacted almost immediately thereafter by this reporter. attempting unsuccessfully to obtain material inside information were on several occasions to get stories written about. In addition, insiders who received calls from enterprise members attempting to develop information on, confronting insiders about, and unsuccessfully attempting issues -- and often using virtually exactly the same language -- that the Enterprise had been of investigative stories" he was pursuing. That reporter began asking questions about exactly the York reporter with whom members of the Enterprise were communicating regarding the "series 143. Simultaneously with these events, Fairfax began receiving calls from the New

### 2. The Enterprise Attempts to Orchestrate Negative Press

with the message "RUN RABBIT Run . . . Check your email George and get back to me." Reconnaissance that revealed the e-mail name Ambridge had used in their private exchanges Ambridge did not respond, Contogouris sent him an e-mail directly to his office from MI4 such threats, Contogouris told him "you are done" unless he immediately rescheduled. When receiving e-mails directly at his office, and "will regret it later." When Ambridge objected to immediately cooperate he could "no longer rely on my discretion," should expect to begin "consider all my options as maintaining our confidentiality," threatening that if Ambridge did not think what I could do with all your emails," calling his office directly, stating that he intended to threatened him by accusing him of being involved in a "criminal fraud", reminding him to "just

147. The Enterprise's scheme inflicted enormous damage on Fairfax's reputation, business, employees, and investors. The scheme's unrelenting campaign of negative misinformation devastated the market reputation of Fairfax and its affiliated operating companies, as well as the business relationships critical to its operation and strategic plans. For example, the attack on Fairfax caused its operating companies to suffer downgrades by its rating agencies, with a concomitant decrease in business. The misinformation disseminated by Enterprise members about Fairfax's accounting and business practices devastated Fairfax's reputation among, and relationship with, the customers, agents, regulators, and business partners critical to the success of Fairfax's growth -- and survival -- as a major property and casualty

### G. Damages

instigated regulatory action.

that it would hope to base on the expected series of tabloid pieces, inside information, and enormous short position. As a result, the Enterprise was forced to regroup for another attempt thereby provide the genuine selling pressure and liquidity to allow the Enterprise to cover its

146. However, the Enterprise's efforts failed to shake loose the major shareholders and likewise plummeted to nearly \$90 per share.

report that these rumors were causing the value of Fairfax's bonds to collapse. Fairfax's stock Goldman Sachs called Fairfax's bond portfolio managers throughout the day of June 23, 2006, to houses, rating agencies, and analysts all made alarmed calls to Fairfax seeking answers.

145. These rumors were so intense that major shareholders, trading desks, brokerage that failed, and Fairfax had attempted a \$300 million equity offering that had failed.

cancelled an investor call about the SEC investigation, Fairfax had attempted a bond offering offices, major shareholders were looking to sell their shares, Fairfax had scheduled and then subsidiaries were missing cash, the Royal Canadian Mounted Police were about to raid Fairfax's

insurer. Fairfax's underwriting revenues slowed and never reached the levels they would have but for the scheme's attack. The same reputational damage caused Fairfax to seek financing for its operations and growth on far more expensive terms than would have otherwise been necessary. As a direct result of the harm the Enterprise's scheme inflicted on Fairfax's underwriting efforts and ability to do business, Fairfax was forced to scale back its strategic initiatives and plans to grow and expand its business.

148. The Enterprise's misinformation campaign and other manipulative conduct also substantially contributed to many of the regulatory investigations and class action lawsuits initiated against Fairfax and the substantial amounts of money and management attention and focus that were required to address those proceedings.

149. The increased costs and expenses, lost profits, harm to reputation, lost acquisition opportunities, and diminished enterprise value that the Enterprise's scheme, as carried out by each of the defendants, directly and proximately inflicted upon plaintiffs is no less than \$6 billion.

150. Plaintiffs restate each and every allegation of paragraphs 1 through 149 as if fully set forth herein.

151. Defendants are persons as that term is used in N.J.S.A. 2C:41-1(b).

152. Defendants-comprise an association, associations and/or are associated-in-fact Enterprise as those terms are defined in N.J.S.A. 2C:41-1(c). The Enterprise has an existence beyond that which is merely necessary to commit predicate acts and, among other things,

**RACKETEERING IN VIOLATION OF N.J.S.A. 2C: 41-2(c)  
(AGAINST ALL DEFENDANTS)**

**COUNT I**

**CAUSES OF ACTION**

oversaw and coordinated (and continues to oversee and coordinate) the commission of numerous predicate acts on an on-going basis in furtherance of the scheme and efforts to conceal the scheme. The Enterprise was operated, managed and controlled by each of the S.A.C. Defendants, Exis Defendants, Lone Pine Defendants, Rucker Defendants, Third Point Defendants, Trinity Defendants, Morgan Keegan Defendants and Lawless.

153. The conduct, acts, and omissions of the defendants set forth above were an integral part of the overall pattern and practices described herein, including the facilities of United States interstate commerce to reap vast profits from their scheme to issue false and misleading statements to the public and, thereby, cause enormous harm to the plaintiffs, their employees and investors.

154. The Enterprise and its scheme had and continue to have substantial ties to New Jersey, including the planning and execution of central elements of the scheme in New Jersey and the infliction of enormous monetary and other harm as a direct and proximate result of the scheme in New Jersey, including but not limited to the following:

- The Enterprise's attack on C&F was directly targeted at a corporation with its principal place of business in New Jersey. Indeed, as set forth more fully above, the interference with, and injury to, this New Jersey business was an essential element of the Enterprise's scheme.
- The scheme was in fact successful in significantly injuring this New Jersey business by interfering with its access to credit and financing, damaging its business reputation and critical business relationships, and causing it to surrender lucrative business it would otherwise have enjoyed.
- The Enterprise's scheme also resulted in substantial losses on the part of New Jersey shareholders who had invested in the publicly-traded parent corporation of C&F, a New Jersey business.
- Many additional New Jersey companies were also targeted as part of the scheme with the same associated categories of injury.
- Critical elements of the scheme were executed in New Jersey, where several members of the Enterprise reside, do business, and conduct some or all of their Enterprise activities.

Similarly, during the period covered by this complaint, the Roker Defendants operated out of Millburn, New Jersey and supported the scheme out of those New Jersey offices.

- The S.A.C. Defendants, Exis Defendants, Lone Pine Defendants, Roker Defendants, Third Point Defendants and Trinity Defendants participated in the Enterprise's scheme on behalf of various limited partners who reside or resided in New Jersey and who profited significantly from the Enterprise's scheme. Moreover, each of these defendants frequently had communications and coordinated with the Morgan Keegan Defendants and caused the Morgan Keegan Defendants to disseminate its reports to numerous clients, investors, journalists, and media outlets located throughout New Jersey.
- The S.A.C. Defendants, Exis Defendants, Lone Pine Defendants, Roker Defendants, Third Point Defendants and Trinity Defendants frequently had communications and coordinated with Lawless, a New Jersey resident, and caused Lawless to disseminate reports and information to numerous clients, investors, journalists, and media outlets located throughout New Jersey.

155. Through the conduct and the acts and omissions set forth above, the defendants knowingly and intentionally:

(a) Committed and aided and abetted fraud in connection with the purchase and/or sale of securities in violation of N.J.S.A. 49:3-71 and N.J.S.A. 2C:2-6, which conduct also violated 15 U.S.C. §§ 78j and 78ff, and 17 C.F.R. § 240.10b-5, which are incorporated as "racketeering activity" under the New Jersey RICO statute pursuant to N.J.S.A. 2C:41-1(a)(2);

(b) committed and aided and abetted the commission of deceptive business practices in violation of N.J.S.A. 2C:21-7 and 2C:2-6;

(c) committed and aided and abetted the commission of commercial bribery in violation of N.J.S.A. 2C:21-10 and 2C:2-6;

(d) Used the mails in United States or foreign commerce to commit a fraud in violation of 18 U.S.C. § 1341, which is incorporated as "racketeering activity" under the New Jersey RICO statute pursuant to N.J.S.A. 2C:41-1(a)(2); and

(e) Used the wires in United States or foreign commerce to commit a fraud in

violation of 18 U.S.C. § 1343, which is incorporated as "racketeering activity" under the New

Jersey RICO statute pursuant to N.J.S.A. 2C:41-1(a)(2);

all of which are "predicate acts" under N.J.S.A. 2C:41-1(a).

156. The defendants' conduct involved "at least two acts of racketeering activity . . .

the last of which occurred within ten years after the commission of a prior act of racketeering

activity" and therefore constituted a "pattern of racketeering" within the meaning of N.J.S.A.

2C:41-1(d)(1).

157. As set forth above, this pattern consisted of repeated, continuous acts that had the

same or similar purposes, results, participants, victims or methods of commission, and are

interrelated by distinguishing characteristics rather than isolated events, within the meaning of

N.J.S.A. 2C:41-1(d)(2).

158. It was the purpose of the Enterprise to create and disseminate false and

misleading reports and information concerning the businesses of each of the plaintiffs, and other

companies, with the objective of harming those companies and profiting from that harm through

the short-selling of publicly-traded securities issued by those companies, including Fairtax. This

extensive market-manipulation scheme was intended to, and did, provide substantial profits to

the members of the Enterprise. The Enterprise operated by the defendants achieved these

objectives by the conduct of racketeering activity, including:

- engaging in blatant manipulation of the market for the publicly-traded securities of Fairtax and other companies;
- commissioning false and misleading reports concerning each of the plaintiffs and other companies;
- manipulating the issuance of such reports to benefit other Enterprise members and harm others to whom members of the Enterprise owed fiduciary and other duties;

159. Beginning at least as early as December 2002, and continuing until the date of this complaint, in furtherance of and for the purpose of executing and attempting to execute the described schemes and artifices to defraud, each of the defendants, on numerous occasions, used and caused to be used wire communications in interstate and foreign commerce and the U.S. mails, by both making and causing to be made wire communications and mailings. These wire communications and mailings were made, inter alia, for the purposes of (i) communicating with one another to effectuate the dissemination of false and misleading information necessary to perpetrate the scheme to harm the business of Fairfax and other companies and to artificially depress those companies' share prices; (ii) disseminating false and misleading analyst reports and other statements concerning the business and stock of Fairfax and other companies; (iii) wiring monies periodically to compensate purportedly independent analysts; and (iv) coordinating their manipulation of the market for Fairfax stock.

160. Each such use of a wire communication and/or mailing in connection with the described schemes and artifices to defraud constitutes a separate and distinct violation of

- purchasing and/or selling securities in order to profit from the manipulated timing of the issuance of the fraudulent reports;
- charging Enterprise members and others substantial fees to receive the false and misleading information and reports that were created by Enterprise members;
- issuing analyst reports that falsely purported to be "independent" but were, in fact, premeditated attacks on a number of companies, including Fairfax;
- fraudulently misrepresenting that Fairfax shares were overvalued due to, among other things, corporate malfeasance and aggressive accounting by the plaintiffs;
- planting false and misleading information concerning the plaintiffs, and other companies with securities analysts, regulators, rating agencies, customers and investors; and
- rebroadcasting and disseminating that false and misleading information to the media and the public.



N.J.S.A. 2C:41-1(a)(2), by virtue of violating the incorporated federal predicate acts proscribed

by 18 U.S.C. §§ 1341 and/or 1343. The defendants used the wires and mails to perpetrate their

fraudulent scheme and to disseminate the fraudulent reports attacking Fairfax and other

companies. While plaintiffs do not have full knowledge of the extent of the use of the wires and mails by the Enterprise in furtherance of the scheme, the following charts show some, but not all

of those violations.

161. The Morgan Keegan Defendants disseminated each of the approximately 64

Reports and other Fairfax related updates as set forth in Table A, by electronic mail and U.S.

mail to their clients and other Enterprise members. The Morgan Keegan Defendants distributed

each of these reports to numerous clients and no fewer than the 25 Enterprise members set forth

in Table B. The distribution of these reports therefore constitutes more than 1600 separate

fraudulent communications:

MORGAN KEEGAN REPORTS DISTRIBUTED	
Company Report/Bulletin	
Date	
1.	Report Initiating FFH Coverage
2.	FFH Equity Research Note: Initiating Coverage
3.	FFH Equity Research Note: Company Update
4.	FFH Equity Research Note: Company Update
5.	FFH Equity Research Note: Analysis of Sales/Earnings
6.	FFH Equity Research Note: Company Update
7.	FFH Equity Research Note: Company Update
8.	FFH Equity Research Note: Analysis of Sales/Earnings
9.	FFH Equity Research Note: Analysis of Sales/Earnings
10.	FFH Equity Research Note: Analysis of Sales/Earnings
11.	FFH Equity Research Note: Analysis of Sales/Earnings
12.	FFH Equity Research Note: Analysis of Sales/Earnings
13.	FFH Equity Research Note: Analysis of Sales/Earnings
14.	FFH Equity Research Note: Company News
15.	FFH Equity Research Note: Analysis of Sales/Earnings
16.	FFH Equity Research Note: Analysis of Sales/Earnings
17.	FFH Equity Research Note: Accounting Discussions
18.	FFH Equity Research Note: Analysis of Sales/Earnings
19.	FFH Equity Research Note: Accounting Discussion
20.	FFH Equity Research Note: Analysis of Sales/Earnings
21.	FFH Equity Research Note: Industry Note
22.	FFH Equity Research Note: Estimate Change
23.	FFH Equity Research Note: Analysis of Sales/Earnings
24.	FFH Equity Research Note: Accounting Discussion
25.	FFH Equity Research Note: Accounting Discussion
26.	FFH Equity Research Note: Accounting Discussion

TABLE A

RECIPIENTS OF MORGAN KEEGAN REPORTS		
COMPANY/INDIVIDUAL	ADDRESS	CITY/STATE
1. Max Bernstein	401 East 34th Street, 35G	New York, NY
2. James Chamos	350 E. 79th Street, 35A	New York, NY
3. Spyro Contogouris	12 East 78th Street	New York, NY
4. Exit Capital Management	767 3d Avenue	New York, NY
5. Greenlight Capital, LLC	140 East 45th Street	New York, NY
6. John Hempton	84 Hopetoun Avenue	Sydney, Australia
7. Brett Lawless	860 Old Chester Road	Far Hills, NJ
8. Lighthouse Capital Management, Inc.	1000 Memorial Drive,	Houston, Texas
9. Lone Pine Capital Management, LLC	Two Greenwich Plaza	Greenwich, CT
10. Jeff Perry	9 Wayside Lane	Scarsdale, NY
11. Reguot Capital Management	500 Nysala Farm Rd	Westport, CT
12. Perry Capital Management	599 Lexington Avenue	New York, NY
13. Platinum Asset Management	55 Harrington Street	Sydney, Australia
14. David Rocker	43 Minnitsink Road	Short Hills, NJ
15. Rocker Partners	374 Millburn Avenue	Millburn, NJ
16. SAC Capital Advisors, LLC	72 Cummings Point Road	Stamford, CT
17. SAC Capital Associates, LLC	72 Cummings Point Road	Stamford, CT

TABLE B

27. FFH Equity Research Note: Analysis of Sales/Earnings	2/11/05
28. FFH Equity Research Note: Analysis of Sales/Earnings	5/2/05
29. FFH Equity Research Note: Accounting Discussion	6/28/05
30. FFH Equity Research Note: Accounting Discussion	7/13/05
31. FFH Equity Research Note: First Look	7/29/05
32. FFH Equity Research Note: Accounting Discussion	7/29/05
33. FFH Equity Research Note: Analysis of Sales/Earnings	7/29/05
34. FFH Equity Research Note: Industry Note	9/2/05
35. FFH Equity Research Note: Estimate Change	9/6/05
36. FFH Equity Research Note: mid-day look	9/6/05
37. FFH Equity Research Note: Estimate Change	9/12/05
38. FFH Equity Research Note: Industry Note	10/6/05
39. FFH Equity Research Note: Company News	10/10/05
40. FFH Equity Research Note: Analysis of Sales/Earnings	10/31/05
41. FFH Equity Research Note: Accounting Discussion	11/3/05
42. FFH Equity Research Note: Estimate Change	12/2/05
43. FFH Equity Research Note: Pre-Results Comment	1/27/06
44. FFH Equity Research Note: Company News	2/3/06
45. FFH Equity Research Note: mid-day look	2/10/06
46. FFH Equity Research Note: Analysis of Sales/Earnings	2/10/06
47. FFH Equity Research Note: Accounting Discussion	2/16/06
48. FFH Equity Research Note: mid-day look	2/17/06
49. FFH Equity Research Note: Accounting Discussion	2/23/06
50. FFH Equity Research Note: Company News	3/2/06
51. FFH Equity Research Note: Accounting Discussion	3/6/06
52. FFH Equity Research Note: mid-day look	3/20/06
53. FFH Equity Research Note: Company News	3/20/06
54. FFH Equity Research Note: Accounting Discussion	3/29/60
55. FFH Equity Research Note: Strategic Review	4/10/06
56. FFH Equity Research Note: Accounting Discussion	4/12/06
57. FFH Equity Research Note: mid-day look	4/17/06
58. FFH Equity Research Note: Accounting Discussion	4/17/06
59. FFH Equity Research Note: first look	4/28/06
60. FFH Equity Research Note: Analysis of Sales/Earnings	5/1/06
61. FFH Equity Research Note: mid-day look	5/8/06
62. FFH Equity Research Note: Accounting Discussion	5/8/06
63. FFH Equity Research Note: Industry Note	5/25/06
64. FFH: Pre Results Comments	7/21/06

TABLE C MAIL AND WIRE COMMUNICATIONS				
Sender/Caller	Recipient	Date	Subject	Method
Max Bernstein	Fairfax CFO	9/6/05	Seeking comment on SEC subpoena to Fairfax	Phone call
Spyro Contogours on behalf of "M14"	Fairfax shareholders, analysts, and rating agencies	10/7/05	"FFH Morning Note"	U.S. mail and E-mail
Stocklemon.com	N/A	10/21/05	Posted report "Where There's Smoke There's Fire... Could Fairfax Financial Be the Next Refco?????"	Website
Max Bernstein	Prem Watsa	11/9/05	E-mail attaching an article regarding the Fugitive Marty Frankel	E-mail
Max Bernstein as Monty Gardener	Prem Watsa	11/10/05	"EX REFCO CEO BENNETT CHARGED WITH SECURITIES FRAUD, OTHERS CHARGED IN 8-COUNT INDICTMENT"	E-mail

162. Enterprise member Lawless also disseminated false and misleading reports concerning Fairfax. For example, as set forth above, Lawless disseminated such a false and misleading report on March 2, 2005. That report was distributed to no fewer than the 25 Enterprise Members set forth in Table B above, as well as to many other individuals and entities throughout the United States and internationally.

163. Enterprise members spoke on the phone, used electronic mail and U.S. mail regularly to conduct the activities of the Enterprise. The total number of phone calls, e-mails and mailings and the identities of all Enterprise members is not yet known, but Enterprise members engaged in the following phone calls, e-mails, and U.S. mailings as set forth in Table C, each constituting a separate mail or wire communication in furtherance of the fraudulent scheme:

18. SAC Capital Management, LLC	72 Cummings Point Road	Stamford, CT
19. Adam D. Sender	109 Greene Street, 4B	New York, NY
20. Sigma Capital Management, LLC	540 Madison Avenue	New York, NY
21. Third Point, LLC	390 Park Avenue	New York, NY
22. Trinity Capital Management, Inc.	1819 Goodwin Street	Jacksonville, FL
23. Trinity Fund, Ltd.	1620 Independence Square	Jacksonville, FL
24. Viking Capital Management	280 Park Avenue	New York, NY
25. Ziff Brothers Investments	153 East 53 Street	New York, NY

Max Bernstein	[name omitted]	11/15/05	Interest in Prem Watsa and Fairfax	Phone call
Max Bernstein as Mony Gardener	Prem Watsa	11/15/05	"EX REFCO CEO BENNETT CHARGED WITH SECURITIES FRAUD, OTHERS CHARGED IN 8-COUNT INDICTMENT"	E-mail
Max Bernstein	Fairfax shareholders, analysts, rating agencies and media	12/16/05	"Trevor's Travels: The Kingsmead Fraud - Another Enron-like, off balance sheet deception."	E-mail
Max Bernstein as Robert Rafelson	Prem Watsa	12/16/05	Asking if Prem was using shareholder money to fuel the corporate jet for his family's personal use.	E-mail
Max Bernstein as Dick Tracey	[name omitted]	12/19/05	"To Fairfax or Whatever It Is Today" attaching article regarding the Fugitive Marty Frankel sent to Prem Watsa on 11/9/05	E-mail
Max Bernstein as Dick Tracey	[name omitted]	12/19/05	"Personal Use of the Fairfax Corporate Jet by Prem Watsa and Family" and attaching article regarding Marty Frankel's use of the corporate jet.	E-mail
Max Bernstein as Dick Tracey	[name omitted]	12/21/05	Resending 12/19/05 email "To Fairfax or Whatever It Is Today" attaching article regarding the Fugitive Marty Frankel sent to Prem Watsa on 11/9/05	E-mail
Max Bernstein as Dick Tracey	[name omitted]	12/19/05	"Personal Use of the Fairfax Corporate Jet by Prem Watsa and Family" and attaching article regarding Marty Frankel's use of the corporate jet.	E-mail
Max Bernstein as Dick Tracey	[name omitted]	12/21/05	Resending 12/19/05 email "To Fairfax or Whatever It Is Today" attaching article regarding the Fugitive Marty Frankel sent to Prem Watsa on 11/9/05	E-mail
Max Bernstein as Dick Tracey	[name omitted]	12/29/05	"Personal Use of the Fairfax Corporate Jet by Prem Watsa and Family" and attaching article regarding Marty Frankel's use of the corporate jet.	E-mail
Max Bernstein as Dick Tracey	[name omitted]	12/29/05	Resending 12/19/05 email "To Fairfax or Whatever It Is Today" attaching article regarding the Fugitive Marty Frankel sent to Prem Watsa on 11/9/05	E-mail
Max Bernstein as Dick Tracey	[name omitted]	12/29/05	Resending 12/19/05 email "Personal Use of the Fairfax Corporate Jet by Prem Watsa and Family" and attaching article regarding Marty Frankel's use of the corporate jet.	E-mail
Max Bernstein as Dick Tracey	[name omitted]	12/30/05	Resending 12/19/05 email "To Fairfax or Whatever It Is Today" attaching article regarding the Fugitive Marty Frankel sent to Prem Watsa on 11/9/05	E-mail
Max Bernstein as Max Bernstein	[name omitted]	12/30/05	Resending 12/19/05 email	E-mail

Dick Tracey				Corporate Jet by Prem Watsa and Family" and attaching article regarding Marty Frankel's use of the corporate jet.							
Spyro Contogouris	N/A	12/30/05	Launch of www.premwatsa.com, www.premwatsa.net, www.premwatsa.co.uk								
Max Bernstein	Tucker Hall	1/30/06	Demanding information concerning certain FFH subsidiaries								
Exis, Spyro Contogouris and Max Bernstein	Fairfax shareholders, analysts, ratings agencies and media, including Brett Lawless and John Gwynn	January 2006	Acting as unbiased analysts Enterprise member contact Fairfax shareholders, analysts, ratings agencies and media, including Brett Lawless and John Gwynn to spread their misinformation.								
Unknown	N/A	2/14/06-2/16/06	Six one minute "Attacks" on Fairfax website aimed at obtaining otherwise compromising the Fairfax web server								
Max Bernstein as Robert Rafael	Chris Clark of Price Waterhouse	3/2/06	Attaching documents purporting to show that Price Waterhouse knew of material inflation in the financial statements of FFHL (Luxembourg) S.a.r.l.								
Max Bernstein as Robert Rafael	Dennis Nally of Price Waterhouse	3/2/06	Attaching documents purporting to show that Price Waterhouse knew of material inflation in the financial statements of FFHL (Luxembourg) S.a.r.l.								
Max Bernstein as Robert Rafael	Dennis Nally of Price Waterhouse	3/2/06	Attaching documents purporting to show that Price Waterhouse knew of material inflation in the financial statements of FFHL (Luxembourg) S.a.r.l.								
Max Bernstein as Robert Rafael	Chris Clark of Price Waterhouse	3/6/06	Attaching documents purporting to show that Price Waterhouse knew of material inflation in the financial statements of FFHL (Luxembourg) S.a.r.l.								
Max Bernstein as Robert Rafael	Dennis Nally of Price Waterhouse	3/6/06	Attaching documents purporting to show that Price Waterhouse knew of material inflation in the financial statements of FFHL (Luxembourg) S.a.r.l.								
Spyro Contogouris from spyrom14@aolm.com	Chris Clark of Price Waterhouse	3/9/06	Purporting to bring to auditors' attention that a PWC affiliate in India resigned as auditor of a company in which Odyssey Re had made an investment								
Spyro Contogouris from spyrom14@aolm.com	Dennis Nally of Price Waterhouse	3/9/06	Purporting to bring to auditors' attention that a PWC affiliate in India resigned as auditor of a company in which Odyssey Re had made an investment								

TABLE D FAIRFAX CONFERENCE CALLS	
Conference Call	Enterprise Participants
2/11/03	Greenlight Capital John Gwynn John Hempton Brett Lawless Lone Pine Morgan Keegan Perry Capital Platinum Asset Management SAC Capital Sigma Capital Management Third Point
2/24/03	SAC Capital

164. Enterprise members at various times participated in Fairfax quarterly conference calls. The total number of calls and the identities of each participant is not yet known, but the Enterprise members participated in the following quarterly conference calls, as set forth in Table D, each call into the conference constituting a communication by wire in furtherance of the fraudulent scheme:

Spyro Contogouts from spyrom14@aim.com	Catherine Regan, General Counsel for Fairfax European Subsidiary	3/9/06	Email stating "I am reading about you in the Lawer [sic] News and am stunned by the fact that you are posing next to the largest nose I have ever seen..."	E-mail
Spyro Contogouts from spyrom14@aim.com	Andy Barnard	3/10/06		E-mail
Spyro Contogouts from spyrom14@aim.com	Rob Giammarco	3/10/06		E-mail
Spyro Contogouts Greg Taylor, Fairfax CFO	3/10/06			E-mail
Anonymous Prem Watsa	3/16/06	Audio Clip from Harry Potter	Audio Clip from Harry Potter	Phone call
Anonymous Greg Taylor	3/16/06	Audio Clip from Harry Potter	Audio Clip from Harry Potter	Phone call
maestro099	N/A	3/21/06	Post on FFH investor chat board reported "Bad news coming"	Web post
Brett Lawless	Fairfax Shareholders	3/29/06	Giving out information on capacity as CFRA analyst	E-mail
Brett Lawless	Fairfax Shareholders	3/29/06	Giving out information on Fairfax ostensibly in his capacity as CFRA analyst	E-mail
		3/29/06	Giving out information on Fairfax ostensibly in his capacity as CFRA analyst	Phone call

5/5/03	James Chanos Greenlight Capital John Hempton Brett Lawless Platinum Asset Management SAC Capital Sigma Capital Third Point
5/16/03	Greenlight Capital
8/1/03	John Gwynn Lone Pine Morgan Keegan Sigma Capital
8/15/03	Lighthouse Private Client Greenlight Capital
11/3/03	John Gwynn Lighthouse Lone Pine Morgan Keegan
11/17/03	Greenlight Capital John Hempton Brett Lawless Platinum Asset Management
2/9/04	Greenlight Capital John Gwynn John Hempton Brett Lawless Lighthouse Morgan Keegan Platinum Asset Management Sigma Capital Ziff Brothers
2/23/04	Lone Pine Morgan Keegan
4/30/04	John Gwynn John Hempton Brett Lawless Lone Pine Morgan Keegan Regout Capital Platinum Asset Management SAC Capital Advisors Ziff Brothers
5/14/04	Brett Lawless SAC Capital Advisors
7/30/04	John Gwynn Brett Lawless Lone Pine Morgan Keegan SAC Capital Sigma Capital Management
8/13/04	Brett Lawless
10/29/04	John Gwynn John Hempton Brett Lawless Lone Pine Morgan Keegan Platinum Asset Management SAC Capital
2/11/05	John Gwynn Brett Lawless

165. As set forth herein, as part of their pattern of racketeering activities and in furtherance of and to assist their scheme and artifice to defraud plaintiffs, among others, each of the defendants knowingly, willfully, and unlawfully made misrepresentations or omissions of material fact for the purpose of harming plaintiffs' businesses and inducing Fairfax shareholders and others to rapidly sell their Fairfax shares and artificially depress the price of the common stock. Such misrepresentations and omissions, and the aiding and abetting such misrepresentations and omissions, constitute securities fraud in violation of N.J.S.A. 49:3-71 and N.J.S.A. 2C:2-6, and independently constitute violations of 15 U.S.C. §§ 78j and 78ff.

166. Defendants' activities set forth herein, including the dissemination of false and misleading reports that fail to disclose the true source and intent of their information, also constitute violations of N.J.S.A. 2C:21-7(g).

4/29/05	John Gwynn Brett Lawless Lone Pine Morgan Keegan Rocker Partners Ziff Brothers
7/29/05	Spyro Contogouris Exis John Gwynn Brett Lawless Lone Pine Morgan Keegan Rocker Partners Ziff Brothers
10/28/05	Spyro Contogouris Exis John Gwynn Lighthouse Private Client Group Lone Pine Morgan Keegan Jeff Perry Third Point Ziff Brothers
2/10/06	John Gwynn Morgan Keegan Ziff Brothers
	Lone Pine Morgan Keegan



167. As part of their pattern of racketeering activities and in furtherance of and to assist their scheme and artifice to defraud Fairfax, among others, the S.A.C. Defendants, Exis Defendants, Lone Pine Defendants, Roker Defendants, Third Point Defendants, Trinity Defendants, Morgan Keegan Defendants and Lawless Defendants knowingly, willfully, and unlawfully engaged in commercial bribery and breach of duty to act disinterestedly in violation of N.J.S.A. 2C:21-10 by accepting and agreeing to accept certain benefits as consideration for violating or agreeing to violate their duties of fidelity to their clients, by participating in a scheme that put their clients at serious financial risk and resulted in substantial financial injury to their clients. As part of their pattern of racketeering activities and in furtherance of and to assist their scheme and artifice to defraud plaintiffs, among others, The S.A.C. Defendants, Exis Defendants, Lone Pine Defendants, Roker Defendants, Third Point Defendants, Trinity Defendants, Morgan Keegan Defendants and Lawless Defendants knowingly, willfully and unlawfully engaged in commercial bribery in violation of N.J.S.A. 2C:21-10 by inducing other Enterprise members to accept and agreeing to accept certain benefits as consideration for violating or agreeing to violate their duties of fidelity as independent analysts for their clients.

168. From at least 2002 and continuing to the present, the defendants repeatedly engaged in illegal acts under N.J.S.A. 49:3-71, N.J.S.A. 2C:2-6, N.J.S.A. 2C:21-7 and 2C:2-6 (relating to deceptive business practices), and N.J.S.A. 2C:21-10 and 2C:2-6 (relating to commercial bribery); the same conduct or other conduct by the defendants as described herein also violated 18 U.S.C. § 1341 (relating to mail fraud), 18 U.S.C. § 1343 (relating to wire fraud), 15 U.S.C. §§ 78j and 78ff, and 17 C.F.R. § 240.10b-5 (relating to securities fraud). The defendants used the United States mails, as well as wire and other communications in interstate and foreign commerce in connection with these acts and thereby continually engaged in

“racketeering activity” within the meaning of N.J.S.A. 2C:41-1(a) and 2C:41-1(d), including by engaging in conduct defined as “racketeering activity” under 18 U.S.C. § 1961(1)(B), which is incorporated by reference in N.J.S.A. 2C:41-1(a)(2), in the course of the described criminal schemes.

169. The repeated violations by the defendants set forth herein extended over a period

of years and involved distinct and independent criminal acts. They were neither isolated nor sporadic events, but involved the regular and repeated violation of law to accomplish the

defendants’ desired ends in the course of continuing the fraudulent business of the Enterprise.

170. These acts were related to each other by virtue of (a) common participants;

(b) common types of victims; and (c) the common purpose and common result of concerted

attacks on companies through the creation and dissemination of false and misleading reports

concerning their businesses and stock, resulting in vast trading profits for the Enterprise

members at the expense of the target companies, their employees and shareholders.

171. These repeated and continuing violations of N.J.S.A. 2C:41-1(a) and 2C:41-1(d)

were neither isolated nor sporadic events, but involve a callous and calculated series of repeated

violations of law in order to conceal and promote criminal activity in the course of the continuing

business of the Enterprise. These activities therefore constitute a further component of a pattern

of racketeering activity within the meaning of N.J.S.A. 2C:41-1(a) and 2C:41-1(d).

172. Each of the S.A.C. Defendants, Exis Defendants, Lone Pine Defendants, Roker

Defendants, Third Point Defendants, Trinity Defendants, Morgan Keegan Defendants and

Lawless were, or were employed by, active participants in the Enterprise and all of them

knowingly and intentionally violated or aided violations of N.J.S.A. 2C:41-2(c) by directly or

indirectly conducting or participating in the conduct of the affairs of the Enterprise through a pattern of racketeering activity.

173. By the conduct, acts, and omissions set forth in detail above, each of the S.A.C. Defendants, Exis Defendants, Lone Pine Defendants, Roker Defendants, Third Point Defendants, Morgan Keegan Defendants and Lawless aided, abetted, counseled, induced, and procured the commission of the wrongful acts set forth above and may therefore be held liable as a principal, to the same extent as the other defendants.

174. Each of the S.A.C. Defendants, Exis Defendants, Lone Pine Defendants, Roker Defendants, Third Point Defendants, Trinity Defendants, Morgan Keegan Defendants and Lawless aided, abetted, counseled, induced, and procured the commission of the wrongful acts set forth above and may therefore be held liable as a principal, to the same extent as the other defendants.

175. Each of the S.A.C. Defendants, Exis Defendants, Lone Pine Defendants, Roker Defendants, Third Point Defendants, Trinity Defendants, Morgan Keegan Defendants and Lawless were not merely reckless or negligent in their conduct. Each defendant engaged in the conduct, acts and omissions described above willfully and with actual knowledge of their illegality and actual purpose to the detriment of plaintiffs and other companies, their respective employees and shareholders.

176. These violations of N.J.S.A. 2C:41-2(c) caused plaintiffs to suffer direct injury to their businesses and property through the billions of dollars in lost revenues, profit, enterprise value, and enterprise value that was caused by the methods and practices of the Enterprise described herein. Plaintiffs, therefore, are entitled to recover from the defendants the amount in which it has been damaged, to be trebled in accordance with N.J.S.A. 2C:41-4(c), together with interest and the costs of this suit, including reasonable attorneys' fees.

fraudulent and illegal racketeering acts and conducted and agreed to conduct the affairs of the Keegan Defendants and Lawless personally committed or agreed to commit two or more

Lone Pine Defendants, Roker Defendants, Third Point Defendants, Trinity Defendants, Morgan Defendants, Exis Defendants, S.A.C. Defendants, Roker Defendants, Trinity Defendants, Exis Defendants, 180. Part of the conspiracy was that each of the S.A.C. Defendants, Exis Defendants,

through a pattern of racketeering activity, all in violation of N.J.S.A. 2C:41-2(d), conduct and participate, directly and indirectly, in the conduct of the affairs of the Enterprise, conspired, confederated, and agreed with each other to violate N.J.S.A. 2C:41-2(c), that is, to activities of which affected, trade and commerce -- unlawfully and willfully combined,

transactions carried on by and the affairs of the Enterprise -- which was engaged in, and the Defendants, Morgan Keegan Defendants and Lawless, being persons intimately involved in Defendants, Lone Pine Defendants, Roker Defendants, Third Point Defendants, Trinity

179. Beginning in or about December 2002, each of the S.A.C. Defendants, Exis

through a pattern of racketeering activity within the meaning of N.J.S.A. 2C:41-2(d).

of the affairs of the Enterprise and conspired to do so within the meaning of N.J.S.A. 2C:5-2 facilitate the scheme described herein to manage, operate, conduct, and participate in the conduct Defendants, Trinity Defendants, Morgan Keegan Defendants and Lawless knowingly agreed to S.A.C. Defendants, Exis Defendants, Lone Pine Defendants, Roker Defendants, Third Point

178. Beginning in or about January 2003 and continuing until the present, each of the

set forth herein.

177. Plaintiffs restate each and every allegation of paragraphs 1 through 149 as if fully

**RACKETEERING (N.J.S.A. § 2C: 41-2(d))  
(AGAINST ALL DEFENDANTS)**

**COUNT II**

Enterprise through the pattern of racketeering activity in violation of N.J.S.A. 2C:41-2(c)

described above.

181. In furtherance of the conspiracy and to effect the objects thereof, the S.A.C.

Defendants, Exis Defendants, Lone Pine Defendants, Roker Defendants, Third Point

Defendants, Trinity Defendants, Morgan Keegan Defendants and Lawless committed and caused

to be committed a series of overt acts, including:

- engaging in blatant manipulation of the market for the publicly-traded securities of Fairfax and other companies;
- commissioning false and misleading reports concerning each of the plaintiffs and other companies;
- manipulating the issuance of such reports to benefit other Enterprise members and harm others to whom members of the Enterprise owed fiduciary and other duties;
- purchasing and/or selling securities in order to profit from the manipulated timing of the issuance of the fraudulent reports;
- charging Enterprise members and others substantial fees to receive the false and misleading information and reports that were created by Enterprise members;
- issuing analyst reports that falsely purported to be "independent" but were, in fact, premeditated attacks on a number of companies, including Fairfax;
- fraudulently misrepresenting that Fairfax shares were overvalued due to, among others things, corporate malfeasance and aggressive accounting by the plaintiffs;
- planting false and misleading information concerning the plaintiffs, and other companies with securities analysts, regulators, rating agencies, customers and investors; and
- rebroadcasting and disseminating that false and misleading information to the media and the public.

182. These violations of N.J.S.A. 2C:41-2(d) caused plaintiffs to suffer direct injury to

their businesses and property through the billions of dollars in lost revenues, profit, and

enterprise value that was caused by the methods and practices of the Enterprise described herein.

Plaintiffs, therefore, are entitled to recover from the defendants the amount in which it has been

- The S.A.C. Defendants, Exis Defendants, Lone Pine Defendants, Roker Defendants, Third Point Defendants, Trinity Defendants, Morgan Keegan Defendants and Lawless planting of false and misleading information and collaborating with other Enterprise members to disseminate that information;
- The Morgan Keegan Defendants' issuance of false and misleading reports;
- The S.A.C. defendants' issuance of false and misleading reports;

included:

186. As set forth herein, these injurious attacks on plaintiffs' business and reputation

business with the plaintiffs and interfering with the plaintiffs' business relationships.

intended that these false statements would have the effect of preventing others from doing

185. Defendants communicated these falsehoods to third-parties and understood and

message board postings that were both false and injurious.

future products in analyst reports, newspaper articles, direct communications, and internet

statements attacked the plaintiffs' business fundamentals, their accounting, and their current and

operate their businesses and implement their strategic plan. Defendants' false and malicious

injurious statements about plaintiffs' businesses and property, including plaintiffs' ability to

184. As set forth herein, defendants knowingly and intentionally published false and

set forth herein.

183. Plaintiffs restate each and every allegation of paragraphs 1 through 149 as if fully

**COMMERCIAL DISPARAGEMENT  
(AGAINST ALL DEFENDANTS)**

**COUNT III**

costs of this suit, including reasonable attorneys' fees.

damaged, to be trebled in accordance with N.J.S.A. 2C:41-4(c), together with interest and the

manipulation, mail and wire fraud and unlawful commercial bribery. This interference was these third-parties by employing wrongful unlawful securities market

192. Defendants intentionally and maliciously interfered with plaintiffs' contracts with third-parties.

191. Each of the defendants knew of plaintiffs' contractual relationships with these producers, distributors and suppliers of plaintiffs' insurance products, including, but not limited to: (a) rating agencies; (b) bondholders; (c) employees; and (d) agents,

190. As set forth herein, plaintiffs had contracts and agreements with third-parties, set forth herein.

189. Plaintiffs restate each and every allegation of paragraphs 1 through 149 as if fully

**TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONSHIPS  
(AGAINST ALL DEFENDANTS)**

**COUNT IV**

these and other respects has caused many hundreds of millions of dollars in harm to plaintiffs.

188. Defendants' wrongful disparagement of plaintiffs' businesses and products in investors to sell their shares in Fairfax stock, and causing potential new investors to refrain from purchasing Fairfax stock.

- Reducing plaintiffs' enterprise value by billions of dollars by causing existing investors to sell their shares in Fairfax stock, and causing potential new opportunities.
- Harming the plaintiffs' business reputation, resulting in lower agency ratings and credit ratings. Such decreasing ratings caused, among other things, plaintiffs to suffer loss of underwriting business, increased costs of capital and financing, and loss of prospective acquisitions and other business opportunities.

187. Defendants' false statements directly harmed the plaintiffs' businesses in numerous specific ways, including, without limitation:

- The dissemination of these false reports to media outlets by the defendants;
- The defendants' dissemination and republication of those false and misleading reports in a direct attack on plaintiffs' businesses.

committed intentionally and without justification or excuse and was carried out by, among other things:  
193. Each of the defendants was aware of, and intended to cause, the detrimental impact on plaintiffs' contractual relations that was caused by the defendants' respective actions. As a direct and proximate cause of defendants' intentional interference with plaintiffs' contractual relationships with third-parties, plaintiffs' contractual relationships were damaged, and plaintiffs' suffered resulting monetary damages in an amount to be determined at trial.

194. As a direct and proximate cause of defendants' intentional interference with plaintiffs' contractual relationships with third-parties, plaintiffs' contractual relationships were damaged, and plaintiffs' suffered resulting monetary damages in an amount to be determined at trial.

**TORTIOUS INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE  
(AGAINST ALL DEFENDANTS)**

**COUNT V**

195. Plaintiffs restate each and every allegation of paragraphs 1 through 149 as if fully set forth herein.  
196. Plaintiffs had business relationships and prospective business relationships with many third-parties, including, but not limited to: (a) shareholders and bondholders; (b) actual and potential lenders; (c) other actual and potential marketing and business partners; (d) agents,

- The S.A.C. Defendants, Exis Defendants, Lone Pine Defendants, Rocker Defendants, Third Point Defendants, and Trinity Defendants commissioning of false and misleading reports from the Morgan Keegan Defendants and other Enterprise members, for public dissemination;
- The S.A.C. Defendants, Exis Defendants, Lone Pine Defendants, Rocker Defendants, Third Point Defendants, Trinity Defendants, Morgan Keegan Defendants and Lawless planting of false and misleading information and collaborating with other Enterprise members to disseminate that information;
- The Morgan Keegan Defendants' issuance of false and misleading reports;
- The S.A.C. defendants' issuance of false and misleading reports;
- The dissemination of these false reports to media outlets by the defendants;
- The defendants' dissemination and republication of those false and misleading reports in a direct attack on plaintiffs' businesses.



producers, and other actual and potential distributors and suppliers of plaintiffs' products; and (e)

shareholders and management of various companies under consideration for acquisition by

plaintiffs.

197. Each of the defendants knew of plaintiffs' actual and potential contractual and

business relationships with these third-parties.

198. Defendants intentionally and maliciously interfered with plaintiffs' relationships

with these third-parties by employing wrongful means that included unlawful securities market manipulation, mail and wire fraud, and unlawful commercial bribery. This interference was

committed intentionally and without justification or excuse and was carried out by, among other

things:

- The S.A.C. Defendants, Exis Defendants, Lone Pine Defendants, Roker Defendants, Third Point Defendants, and Trinity Defendants commissioning of false and misleading reports from the Morgan Keegan Defendants and other Enterprise members, for public dissemination;
- The S.A.C. Defendants, Exis Defendants, Lone Pine Defendants, Roker Defendants, Third Point Defendants, Trinity Defendants, Morgan Keegan Defendants and Lawless planting of false and misleading information and collaborating with other Enterprise members to disseminate that information;
- The Morgan Keegan Defendants' issuance of false and misleading reports;
- The S.A.C. defendants' issuance of false and misleading reports;
- The dissemination of these false reports to media outlets by the defendants;
- The defendants' dissemination and republication of those false and misleading reports in a direct attack on plaintiffs' businesses.

199. Plaintiffs had a reasonable expectation that each of the aforementioned business

relationships would result in plaintiffs obtaining the benefits of these business opportunities.

However, defendants' wrongful actions directly caused plaintiffs to lose or alter the business

relationships described herein, to plaintiffs' economic detriment. Each of the defendants was

- The S.A.C. Defendants, Exis Defendants, Lone Pine Defendants, Rocker Defendants, Third Point Defendants, and Trinity Defendants commissioning of false and misleading reports from the Morgan Keegan Defendants and other Enterprise members, for public dissemination;
- The S.A.C. Defendants, Exis Defendants, Lone Pine Defendants, Rocker Defendants, Third Point Defendants, Trinity Defendants, Morgan Keegan Defendants, Third Point Defendants, Trinity Defendants, Morgan Keegan

wrongful and overt acts set forth above, including:

203. The defendants' conspiratorial scheme was carried out by the commission of the

accepted them, and was an active and knowing participant in the scheme.

trading in Fairfax securities. Each of the defendants understood the objectives of the scheme, harming the plaintiffs' businesses and profiting from that harm through improper and unlawful

and misleading statements and reports concerning the plaintiffs' business, with the goals of defendants shared the same conspiratorial objective, which was to create and disseminate false respect to Counts III through V and acted in concert to commit unlawful acts. Each of the

202. As set forth herein, each of the defendants, together with others, conspired with

set forth herein.

201. Plaintiffs restate each and every allegation of paragraphs 1 through 149 as if fully

**COMMON LAW CIVIL CONSPIRACY  
(AGAINST ALL DEFENDANTS)**

**COUNT VI**

be determined at trial.

relationships were damaged, and plaintiffs suffered resulting monetary damages in an amount to plaintiffs' actual and prospective contractual relationships with third-parties, plaintiffs' business

200. As a direct and proximate cause of defendants' intentional interference with

contractual relations.

aware of, and intended to cause, this detrimental impact on plaintiffs' prospective and actual

just and proper;

in continued wrongful activity, as set forth herein, in the form that the Court may determine is Awarding plaintiffs injunctive relief preventing defendants from engaging (d)

of litigation under N.J.S.A. 2C:41-4(c), in amounts to be determined at trial;

Awarding plaintiffs treble damages, costs of suit, attorney's fees and costs (c)

determined at trial;

Awarding plaintiffs punitive and exemplary damages in amounts to be (b)

at trial, together with interest, attorneys' fees, costs and disbursements;

Awarding plaintiffs compensatory damages in amounts to be determined (a)

WHEREFORE, Plaintiffs demand judgment:

206. Demand is hereby made for a trial by jury for all issues so triable.

**DEMAND FOR JURY TRIAL**

malice and knowledge that it was wrongful.

205. At all relevant times, the defendants' conduct was willful and done with legal

plaintiffs have been injured and suffered damages in an amount to be proven at trial.

204. As a direct, proximate result of the operation and execution of the conspiracy,


- Defendants and Lawless planting of false and misleading information and collaborating with other Enterprise members to disseminate that information;
- The Morgan Keegan Defendants' issuance of false and misleading reports;
- The S.A.C. defendants' issuance of false and misleading reports;
- The dissemination of these false reports to media outlets by the defendants;
- The defendants' dissemination and republication of those false and misleading reports in a direct attack on plaintiffs' businesses.

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By:   
\_\_\_\_\_  
NAGEL RICE & MAZIE, LLP

Respectfully submitted,

Dated: July 26, 2006

(f) Such other and further relief as is just and proper.

(e) Prejudgment and post-judgment interest; and

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Plaintiffs designate Bruce H. Nagel, Esq. as trial counsel in this

matter.

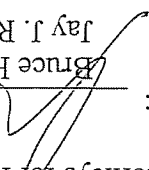
NAGEL RICE & MAZIE, LLP  
Attorneys for Plaintiffs

By: \_\_\_\_\_

Bruce H. Nagel, Esq.  
Jay J. Rice, Esq.

Dated: July 26, 2006

Dated: July 26, 2006

NAGEL RICE & MAZIE, LLP  
 Attorneys for Plaintiffs  
 By:   
 Bruce H. Nagel, Esq.  
 Jay J. Rice, Esq.

Plaintiffs hereby demand trial by jury of all issues so triable.

JURY DEMAND

RULE 4:5-1 CERTIFICATION

Plaintiffs, by their attorneys, hereby certify that the matter in controversy is or may be the subject of other pending judicial proceedings as set forth below. Plaintiffs do not believe that of the parties in the other pending judicial proceedings should be joined in this action.

1. Fisher, et al. v. Fairfax Financial Holdings LTD., et al., C.A. No. 1:06-cv-03713 (GBD), U.S. Court for the Southern District of New York. The parties in the action are:

- a) Glenn M. Fisher
- b) Carol M. Trivette
- c) C.I. Funds Group
- d) Fairfax Financial Holdings LTD.
- e) V. Prem Watsa
- f) Trevor Ambridge
- g) Anthony F. Griffiths
- h) Robert Hartog
- i) Bradley P. Martin
- j) Banc of America Securities, LLC

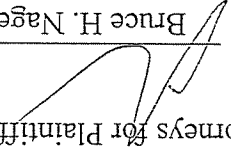
2. Parks, et al. v. Fairfax Financial Holdings LTD., et al., C.A. No. 1:06-cv-02820 (GBD), U.S. Court for the Southern District of New York. The parties in the action are:

- a) Kenneth Parks
- b) William Seymour
- c) C.I. Funds Group
- d) Fairfax Financial Holdings LTD.
- e) V. Prem Watsa
- f) Trevor Ambridge
- g) M. Jane Williamson
- h) Anthony F. Griffiths
- i) Robert Hartog
- j) Bradley P. Martin
- k) Banc of America Securities, LLC
- l) Britton-Notay

3. Johnson, et al. v. Fairfax Financial Holdings LTD., et al., 1:06-cv-03463 (RJH), U.S. Court for the Southern District of New York. The parties in the action are:

Dated: July 26, 2006

NAGEL RICE & MAZIE, LLP  
 Attorneys for Plaintiffs

By: 

Bruce H. Nagel, Esq.  
 Jay J. Rice, Esq.

4. Jaffe, et al. v. Fairfax Financial Holdings LTD. et al., 1:06-cv-03127 (GBD),  
 U.S. Court for the Southern District of New York. The parties in the action are:
- a) Shane Johnson
  - b) C.I. Funds Group
  - c) Fairfax Financial Holdings LTD.
  - d) V. Prem Watsa
  - e) Greg Taylor
  - f) Trevor Ambridge
  - g) M. Jane Williamson
- a) Richard E. Jaffe
  - b) C.I. Funds Group
  - c) Fairfax Financial Holdings LTD.
  - d) V. Prem Watsa
  - e) Greg Taylor
  - f) Trevor Ambridge
  - g) M. Jane Williamson