

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ODYSSEY RE (LONDON) LIMITED,

Plaintiff,

-against-

STIRLING COOKE BROWN HOLDINGS LIMITED,
STIRLING COOKE BROWN INSURANCE BROKERS
LIMITED, STIRLING COOKE BROWN
REINSURANCE BROKERS LIMITED, STIRLING
COOKE NORTH AMERICAN HOLDING LIMITED,
STIRLING COOKE BROWN NORTH AMERICAN
REINSURANCE INTERMEDIARIES INC., NICHOLAS
BROWN, RAYDON UNDERWRITING
MANAGEMENT COMPANY LIMITED, JEH RE
UNDERWRITING MANAGEMENT (BERMUDA)
LIMITED, REGINALD BILLYARD, WEB
MANAGEMENT LLC, CENTAUR UNDERWRITING
MANAGEMENT LIMITED, EURO INTERNATIONAL
UNDERWRITERS LIMITED, JOHN HUBERT
WHITCOMBE, and CHRISTOPHER R. HENTON,

Defendants.

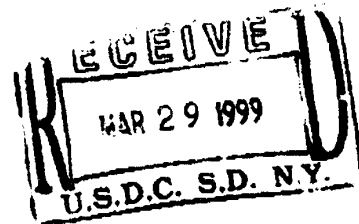
JUDITH KAPLAN

99 CIV. 2326

CIVIL ACTION NO.:
99 Civ. ____ (____)

COMPLAINT

JURY TRIAL DEMANDED



Plaintiff Odyssey Re (London) Limited ("Odyssey Re London") (formerly Sphere Drake Insurance PLC), by its attorneys, Wilson, Elser, Moskowitz, Edelman & Dicker LLP, for its complaint alleges:

NATURE OF ACTION

1. This action arises from a fraud engineered by a racketeering enterprise centered in the United States. Odyssey Re London has recently discovered (and is still uncovering) facts that reveal an insidious pattern of improper, fraudulent conduct. These facts reveal that the defendants fraudulently conspired to induce and did induce Odyssey Re London to entrust

them with its underwriting authority, and that the defendants then abused that authority, through deceit and unconscionable self dealing, from which the defendants have reaped enormous, unlawful financial benefit and have damaged Odyssey Re London. Odyssey Re London seeks damages and other equitable relief against the parties who participated in the fraud.

2. The defendants are agents who produce, underwrite, or act as brokers or intermediaries for insurance and reinsurance transactions. For their roles in facilitating or organizing transactions between, among, and on behalf of insurers and reinsurers, the defendants receive commissions or brokerage fees calculated as a percentage of the premiums generated by the business.

3. Reinsurance is a contractual arrangement through which an insurance company transfers or cedes a portion of the risks it has underwritten to other insurers known as reinsurers. In a reinsurance transaction, the reinsurer agrees to indemnify the insurance company for a portion of the loss or losses that may arise under the underlying insurance policy in exchange for a portion of the premium. Thus, for example, in its simplest form, an insurance company might insure a factory for loss against fire in the amount of \$ 10,000,000 and may purchase reinsurance for any loss in excess of \$ 5,000,000. The business to the reinsurance company is "inwards," or "assumed," business. The reinsurer can similarly transfer, or "retrocede," a portion of the risks it has reinsured to other reinsurers. This is called a retrocession, or "outwards" placement, with the original reinsurer termed the retrocedent and the new reinsurer termed the retrocessionaire. This process enables the insurance industry to spread risks among multiple insurance and reinsurance companies.

4. The majority of the insurance and reinsurance business at issue in this action

involves companies domiciled in the United States that insure or reinsure people working in the United States.

5. The success of the racketeering enterprise controlled by the defendants depended entirely on its ability to deceive reinsurers into providing grossly underpriced reinsurance. By deceiving a well-regarded company such as Odyssey Re London into providing such reinsurance, the defendants were then able to underprice competitors in the United States and procure the underlying insurance and reinsurance business. The scheme thus depended on access to the underwriting capacity of a company such as Odyssey Re London. Because of the fraud on Odyssey Re London, defendants were able to generate hundreds of millions of dollars in business through insurance companies for which they had underwriting authority, taking millions of dollars in "management fees" and "brokerage commissions" with each transfer of the risks between those companies, before transferring a material portion of the losses to Odyssey Re London.

6. The defendants, acting through their co-conspirators John Hubert Whitcombe ("Whitcombe") and Christopher R. Henton ("Henton") (London-based underwriters), induced Odyssey Re London to act as a reinsurer for what ultimately was grossly underpriced business guaranteed by its structure and terms to generate overwhelming losses.

7. In late 1996, Odyssey Re London was approached by a London Market broker, Horace Holman International Limited ("Holman"), and was told that Whitcombe was a source of, and capable of underwriting competently, traditional "short-tail" personal accident business, which ordinarily consists of individual accident, kidnap and ransom, and sports injury risks. It was also represented that Whitcombe could arrange reinsurance of the business he underwrote. Underwriting involves evaluating the risk of loss and the

corresponding premium to determine whether acceptance of the risk at the premium charged is commercially reasonable and appropriate. It was initially proposed that Odyssey Re London appoint Whitcombe as an underwriting agent to underwrite and accept a portfolio consisting of low to medium risk traditional personal accident business.

8. When soliciting Odyssey Re London, Whitcombe failed to disclose that h was acting on behalf of and in concert with the other defendants. He also concealed from Odyssey Re London that the business he actually planned to place with Odyssey Re London was not traditional personal accident business, but instead was a substantial volume of United States worker's compensation business that was generated and controlled by the racketeering enterprise. Traditional worker's compensation business is "long-tail" business, where losses continue over an extended period of time.

9. Odyssey Re London considered Whitcombe's proposal for several months and he multiple meetings with Holman and Whitcombe to explore to proposal. Ultimately, Odyssey Re London granted the requested authority to Holman. The contract with Holman (the "Binding Authority"), concluded on January 22, 1997 and effective as of January 1, 1997, provided that underwriting would be performed by Whitcombe. The contract later was amended to provide that the underwriting would be performed by Euro International Underwriting Limited ("Euro International"), a company formed by Whitcombe and that employed both Whitcombe and Henton.

10. Euro International thereafter accepted reinsurance on behalf of Odyssey Re London that was both outside the scope of the Binding Authority and priced at grossly inadequate premium rates. The defendants knew that Euro International's acceptance of the reinsurance was commercially unreasonable and that potentially catastrophic liabilities were

assumed by Odyssey Re London at wholly inadequate premium levels.

11. The source of virtually all the business accepted by Euro International on behalf of Odyssey Re London was the racketeering enterprise centered in the United States of which Euro International, Whitcombe, Henton, and the other defendants were members. A material portion of the subject business reinsured by Odyssey Re London was brokered through Stirling Cooke Brown North American Reinsurance Intermediaries Inc. ("SCB North American"), a company domiciled in New York and a participant in the fraudulent enterprise.

12. The defendants subsequently conspired to compound the initial fraud by representing that they would obtain bona fide outwards reinsurance for Odyssey Re London. Despite their promise, however, defendants arranged outwards reinsurance in such a manner that the transfer of a substantial portion of the exposure under the inwards risks was illusory. By arranging outwards reinsurance with U.S. companies whose underwriting was controlled by the defendants, through a series of concealed transactions, Odyssey Re London's outwards business was retroceded back to Odyssey Re London. Thus, instead of a true transfer of risk, Odyssey Re London's outwards reinsurance resulted in a "recycling" of the risks, while at the same time, defendants extracted additional commissions and management fees for the supposed transfer of the risks away from Odyssey Re London. Moreover, much of the outwards reinsurance was placed in a form that will not cover losses occurring after January 1, 1999.

13. Euro International's false representation that it and other of the defendants would obtain effective reinsurance for Odyssey Re London also induced Odyssey Re London to increase the amount of business Euro International could accept on Odyssey Re London's behalf.

14. This entire scheme was designed to improperly extract millions of dollars in commissions and fees from premiums generated through the defendants enterprise. The defendants accomplished this by fraudulently accepting the underpriced inwards reinsurance on Odyssey Re London's behalf and then retroceding the outwards reinsurance in a manner so as to simply recycle the losses to Odyssey Re London. In both aspect of the fraud, defendants damaged Odyssey Re London.

JURISDICTION AND VENUE

15. The subject matter jurisdiction of this Court is found in 28 U.S.C. §1331 and in principles of supplemental jurisdiction, 28 U.S.C. §1367. The claims asserted herein arise under, inter alia, the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §1962, etseg. and the common law. Conduct material to the completion of defendants fraud occurred in the United States and had and will continue to have substantial effects within the United States.

16. In connection with the acts and course of conduct alleged in this complaint, defendants directly and indirectly used the means and instrumentalities of interstate commerce, including the United States mail, and domestic and international wires and telephones.

17. A substantial part of the events or omissions giving rise to this action occurred within the Southern District of New York. In addition, certain defendants may be found in the Southern District of New York. Venue, thus, is proper in this District pursuant to 28 U.S.C. §1391(b).

18. Requisite minimum contacts exist to support the Court's in personam

jurisdiction over the foreign defendants, whose actions, individually and collectively, occurred in the United States or, if occurring outside the United States, have had and will continue to have grave consequences within the United States. For example, defendant Stirling Cooke Brown Holdings Limited ("SCB Holdings"), although a Bermuda company, in its 1997 Form 10-K filed with the U.S. Securities and Exchange Commission reports that: "through its subsidiaries, [SCB Holdings] provides risk management services and products predominantly to U.S.-based small and mid-sized businesses seeking cost-effective alternatives to traditional workers compensation insurance;" SCB Holdings "now owns insurance and reinsurance brokering subsidiaries based in London, Bermuda and New York;" id. At p. 2; SCB Holdings "has in recent years expanded its MGA [Managing General Agency] network to include offices in Dallas, Texas Sarasota, Ft. Lauderdale and Orlando in Florida; New York City, New York; and Montgomery, Alabama...[that] earn fees and commissions for providing services...[and that] generated revenues of \$ 11.4 million in 1997 and \$ 6.0 million in 1996;" id. at p.2; SCB Holdings "owns a number of Managing General Underwrites ('MGUs') based in Bermuda and the United States who are authorized to underwrite and administer reinsurance business on behalf of a number of independent reinsurance companies...[that] earn fees for providing these underwriting and associated services relating to the business underwritten...[and which] generated revenues of \$4.0 million in 1997 and \$4 million in 1996;" id. at p. 2; "[i]n addition to the oversight of...[SCB Holdings] insurance subsidiaries [SCB Holdings,] as the ultimate parent of a New York domiciled insurer (Realm National), is also subject to regulation under the New York Insurance Holding Company System Regulatory Act (the 'Holding Company Act');" id. at p. 6; and SCB Holdings "markets its workers compensation products and other specialty lines

to retail agents in the U.S. through its Company-owned MGAs...[who] market their services and products through sales representatives, targeted direct mail, local and regional advertising, seminars, and trade and industry conventions...[and] advertises in U.S. and international trade journals." Id. at p.4.¹

19. Requisite minimum contacts with the other foreign defendants and established by virtue of their placement and reinsurance of workers compensation insurance covering primarily United States risks, either directly or through reinsurance pools operating in the United States. Virtually all the premium paid to support the operation of the enterprise described below emanated from and passed through banking systems in the United States, and the consequential harm of defendants conduct, wherever performed, will be felt most significantly in the United States.

PLAINTIFF

20. Plaintiff Odyssey Re London is a corporation created under the laws of the United Kingdom, having its principal place of business in London, England. Odyssey Re London is engaged in the business of insurance and reinsurance in, among other places, the United States.

DEFENDANTS AND RELATED ENTITIES

21. Defendants SCB Holdings is a corporation organized under the laws of Bermuda, and has its principal offices at Victoria Hall, Third Floor, 11 Victoria Street,

¹ In its 1997 Form 10-K, SCB Holdings defined "MGAs" as "subsidiaries...authorized to market products, underwrite risks, issue policies, administer claims and accept associated premiums (continued...)"

Hamilton, Bermuda. Through its subsidiaries, SCB Holdings also maintains offices in London, England; New York, New York; and at various locations in Florida and Texas. As a holding company, SCB Holdings is engaged, through its subsidiaries and related companies, in providing insurance services predominantly to United States businesses. SCB Holding's activities include insurance and reinsurance brokering, underwriting management, risk management, claims control, loss and safety prevention, third-party administration and managed care services, specializing in United States occupational accident and workers compensation alternative risk transfer markets. The shares of SCB Holdings are publicly traded on the NASDAQ national market.

22. Stirling Cooke Brown Holdings (UK) Limited ("SCB Holdings (UK)") is a wholly owned subsidiary of SCB Holdings. SCB Holdings (UK) was incorporated in England in or about February 1990, maintains its principal office at 65 Leadenhall Street, London, England, and through its subsidiaries, is involved in the business of brokering insurance and reinsurance.

23. Defendant Stirling Cooke Brown Insurance Brokers Limited ("SCB Insurance Brokers") is a wholly owned subsidiary of SCB Holdings (UK), which in turn is a wholly owned subsidiary of SCB Holdings. SCB Insurance Brokers s incorporated under the laws of the United Kingdom and maintains its principal office at 65 Leadenhall Street, London, England. SCB Holdings, through its original operating subsidiary, SCB Insurance Brokers, began operations in 1989 as an insurance broker in London specializing in the placement of alternative and traditional workers compensation insurance and the arrangement of associated reinsurance programs. SCB Insurance Brokers Acts as an insurance broker for alternative and

(...continued)

on behalf of various independent and group owned primary insurance carriers."

traditional workers compensation, accident, health and specialty casualty lines, operating in the United States insurance market, as well as in London and Bermuda. According to its own documents, SCB Insurance Brokers operates "in account with" defendant Stirling Cooke Brown Reinsurance Brokers Limited, described below.

24. Defendant Stirling Cooke Brown Reinsurance Brokers Limited ("SCB Reinsurance Brokers") is a wholly owned subsidiary of SCB Holdings (UK), which in turn is a wholly owned subsidiary of SCB Holdings. SCB Reinsurance Brokers is incorporated under the laws of the United Kingdom and maintains its principal office at the same location as SCB Holdings (UK) and SCB Insurance Brokers, 65 Leadenhall Street, London, England. SCB Reinsurance Brokers Acts as a reinsurance broker for alternative and traditional workers compensation, accident, health, and specialty casualty lines, operating in the United States reinsurance market, as well as in London and Bermuda. SCB Reinsurance Brokers also arranges reinsurance coverage for reinsurers.

25. Defendant Stirling Cooke North American Holding Limited ("SC North American Holding"), a Delaware corporation, is a wholly-owned subsidiary of SCB Holdings, and maintains its principal place of business, upon information and belief, at 125 Maiden Lane, New York, New York. Through its subsidiaries, SC North American Holdings is engaged in the business of insurance and reinsurance, insurance and reinsurance brokerage, underwriting management, risk management, and claims control, specializing in United States occupational accident and workers compensation alternative risk transfer markets.

26. Stirling Cooke Texas Inc. ("SC Texas") is an 82% owned subsidiary of SC North American Holding, and maintains its principal place of business at 15660 Dallas Parkway, LB141, Dallas, Texas. SC Texas operates as a managing general agency (or

"MGA") , authorized to market insurance products, underwrite risks, issue policies, administer claims and accept associated premiums on behalf of independent and SCB Holdings owned primary insurers. As an MGA, SC Texas earns fees in the United States for providing underwriting and associated services relating to the insurance underwritten. A significant portion of the insurance underwritten and managed by SC Texas was assumed by companies owned or controlled by other SCB Holdings entities in the United States, and ultimately was reinsured by Odyssey Re London.

27. Stirling Cooke Risk Management Services, Inc. ("SC Risk Mgmt"), a Florida corporation, is a wholly-owned subsidiary of SC North American Holding, and maintains its principal place of business at 100 East Sybelia Avenue, Suite 120, Maitland, Florida. SC Risk Mgmt produced, underwrote and managed various workers compensation programs for alternative staffing businesses in the United States, which insurance was assumed by companies owned or controlled by other SCB Holdings related entities, and ultimately was reinsured by Odyssey Re London.

28. Stirling Cooke New York Insurance Agency Services Inc. ("SC New York Agency") is a wholly-owned subsidiary of SC North American Holding, and maintains its principal place of business at 125 Maiden Lane, New York, New York. SC New York Agency Acts as a broker for the placement of risks for alternative and traditional workers compensation, accident, health and specialty casualty lines.

29. Defendant SCB North American is a wholly-owned subsidiary of SC North American Holding, and maintains its principal place of business at 125 Maiden Lane, New York, New York. As an intermediary, SCB North American administers reinsurance on behalf of Realm National Insurance Company, described below, and, on behalf of numerous

cedents and reinsurers, was the United States based intermediary brokering and administering reinsurance placed with Odyssey Re London.

30. Realm National insurance Company Limited ("Realm National") is a wholly-owned subsidiary of SC North American Holding, is organized under the insurance laws of the States of New York, and maintains its principal place of business at 125 Maiden Lane, New York, New York. As stated in SCB Holding's 1997 Form 10-K, SCB Holdings is the "ultimate parent of a New York domiciled insurer (Realm National), [and] is also subject to regulation under the New York Insurance Holding Company System Regulatory Act (the 'Holding Company Act')." See SCB Holdings 1997 Form 10-K. Realm National operates as a licensed insurer in Alabama, Arizona, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Mississippi, New Mexico, New York, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee and Texas, and also writes insurance on a surplus lines (or non-admitted) basis in Kansas, Missouri, Montana, Ohio, Oregon, Pennsylvania and Virginia. Realm National shares its offices with other SCB Holdings entities, including defendant SCB North American and SC New York Agency, and, as a risk bearing entity, provided a vehicle through which the defendants were able to effectuate their fraudulent scheme.

31. Defendant Nicholas Brown ("Brown") is an individual who resides in Bermuda, is a founder and significant shareholder of SCB Holdings, who has acted and continues to act through and on behalf of SCB Holdings and its many subsidiaries and affiliated companies, and who personally participated in creating, implementing and operating an illegal enterprise designed to deliberately strip insurance and reinsurance risks of premiums through the payment of improper fees and commissions. On information and

belief, Brown traveled to New York City as part of his activities related to the fraud perpetrated on Odyssey Re London by the defendants and related entities and individuals.

32. Nicholas Mark Cooke ("Cooke") is an individual who resides in Bermuda, is a founder and significant shareholder of SCB Holdings, who has acted and continues to act through and on behalf of SCB Holdings and its many subsidiaries and affiliated companies, and who personally participated in creating, implementing and operating an illegal enterprise designed to deliberately strip insurance and reinsurance risks of premium through the payment of improper fees and commissions.

33. Realm Investments Limited ("Realm Investments") was acquired as a wholly owned subsidiary of SCB Holdings in 1996. Realm Investments is a Bermuda-based holding company with subsidiaries engaged in managing general underwriting, managing general agency, reinsurance, captive management and insurance brokering activities. Realm Investments and its subsidiaries all maintain their principal place of business at Victoria Hall, 11 Victoria Street, Third Floor, Hamilton, Bermuda.

34. Defendant Raydon Underwriting Management Company Limited ("Raydon"), is a wholly-owned subsidiary of Realm Investments, and maintains its principal place of business at Victoria Hall, 11 Victoria Street, Third Floor, Hamilton, Bermuda. Raydon, which is owned or controlled by SCB Holdings through Realm Investments, acts as a managing general underwriter (or "MGU") authorized to underwrite insurance contracts on behalf of reinsurance companies, including Clarendon National Insurance Company and Clarendon America Insurance Company (New Jersey Companies), and to accept the associated premium, earning fees and commissions for providing underwriting and other services related to reinsurance contracts, including reinsurance claims administrations and

other services. Raydon was directly involved in arranging reinsurance of U.S.-based workers compensation and occupational accident business by Odyssey Re London on behalf of Clarendon National Insurance Company and Clarendon America Insurance Company.

35. Comp Indemnity Reinsurance Company Limited ("CIRCL") is a wholly owned subsidiary of Realm Investments, which in-turn is wholly owned by SCB Holdings. CIRCL is a Bermuda-based reinsurance company, with its principal place of business at Victoria Hall, Third Floor, 11 Victoria Street, Hamilton, Bermuda, the same location as SCB Holdings, Realm Investments, and Raydon. According to the 1997 prospectus published by SCB Holdings, "CIRCL...reinsures a portion of the underwriting risk on business provided to or by ... [SCB Holdings] and receives a reinsurance premium to cover that risk," and "CIRCL primarily reinsures workers compensation, and associated property and general liability risks emanating in the United States." CIRCL was involved in scheming with other SCB Holdings related entities on how to reduce the net premiums payable to Odyssey Re London for reinsurance ceded to Odyssey Re London on behalf of the Clarendon companies.

36. Defendant JEH Re Underwriting Management (Bermuda) Limited ("JEH Re"), also known as James E. Hackett Reinsurance Corporation, maintains a full service office in Milford, Connecticut and two underwriting and production offices in Philadelphia, Pennsylvania, and in Hamilton, Bermuda. JEH Re provides Special Risk/Personal Accident Reinsurance products to insurance companies, primarily through reinsurance intermediaries. Upon information and belief, JEH Re is owned in part by Realm Investments, defendant Reginald Billyard and James E. Hackett. The administrative functions in the JEH Re Bermuda office are outsourced to Realm Investments, which is 100% owned by certain principals of SCB Holdings. At all relevant times, JEH Re purportedly exercised full

authority to underwrite reinsurance for and on behalf of John Hancock Mutual Life Insurance Company of America ("John Hancock") (a Massachusetts company).

37. Defendant Reginald Billyard ("Billyard") is an individual who resides in Bermuda, is part owned of JEH Re, is President of JEH Re's Bermuda office, and who personally participated in creating, implementing and operating an illegal enterprise designed to deliberately strip insurance and reinsurance risks of premiums through the payment of improper fees and commissions. As alleged below, defendant Billyard and Cackett previously worked together as underwriters at Duncanson & Holt.

38. Defendant WEB Management LLC ("WEB") is a Connecticut Limited liability company with a principal place of business at 45 Wintonbury Avenue, Bloomfield, Connecticut. WEB is engaged as an MGU underwriting on behalf of various insurance companies, including All American Life Insurance Company, US Life Insurance Company and Trustmark Insurance Company. WEB actively participates in underwriting and purchasing reinsurance for its portfolio of alternative workers compensation/occupational accident insurance in the United States through various of the SCB Holdings owned and controlled entities.

39. Defendant Centaur Underwriting Management Limited ("Centaur") is a Bermuda Company, engaged as an MGU underwriting on behalf of Sun Life Assurance Company of Canada ("Sun Life of Canada") and Phoenix Home Life Mutual Insurance Company (a Connecticut company) ("Phoenix Home Life") in Hamilton, Bermuda. Centaur actively participates in underwriting and purchasing reinsurance for its portfolio of alternative workers compensation/occupational accident insurance in the United States through various of the SCB Holdings owned and controlled entities.

40. John R. Cackett ("Cackett") is a resident of Bermuda, President of Centaur and personally participates insuring and reinsuring workers compensation insurance in the United States. Cackett previously was an underwriter at Lloyd's of London who specialized in underwriting aviation and personal accident coverage for syndicate 957. After that syndicate was acquired by Duncanson & Holt in 1996, Cackett established his own MGU – Centaur. Centaur, under Cackett's direction, has help underwriting authority for Sun Life of Canada and Phoenix Home Life.

41. Alan Bird ("Bird") is a resident of the United Kingdom, is employed by one or several of the SCB Holdings companies. Bird formerly was the lead underwriter at Lloyd's Underwriting Syndicate 103, which was a significant participant in the precursor to the scheme against Odyssey Re London (as alleged below). Bird presently underwrites reinsurance for CIGNA Re Europe pursuant to a binding authority granted by CIGNA Re Europe to one of the Stirling Cooke companies.

42. Defendant Euro International is a corporation organized under the laws of the United Kingdom, maintains its principal place of business at 14 Fenchurch Avenue, London, England, and is engaged in business as an insurance/reinsurance underwriting entity. Euro International has solicited, negotiated and accepted or ceded insurance and reinsurance risks emanating from the United States, particularly from the United States workers compensation and occupational accident market.

43. Defendant Whitcombe is a citizen of the United Kingdom, resident in Great Britain, and is the principal beneficial owner and an employee of Euro International. Whitcombe resides at Ivanhoe House, The Green, Wethersfield, Braintree, Essex, England. Whitcombe formerly was the head underwriter at a Lloyd's underwriting syndicate (Syndicate

1053, which shared the same managing agency as Syndicate 103), and has been closely aligned with Brown, Cooke, Bird and Henton (described below) for many years.

44. Defendant Henton is a citizen of the United Kingdom, resident in Great Britain, and is an employee or agent of Euro International. Henton resides at 35 Loptin Way, Great Baddow, Chelmsford, Essex, England. Henton formerly was deputy underwriter to Bird at a Lloyd's underwriting syndicate (Syndicate 103). Henton has been closely aligned with Brown, Cooke, Bird and Whitcombe for many years.

45. The unlawful enterprise is an association in fact among Cooke, Brown, Billyard, Cackett, Bird, Whitcombe, Henton and various entities they own or control, including the Stirling Cooke entities, ² Euro International, WEB, Centaur, and JEH Re. The complex corporate structure of the Stirling Cooke entities – through, among other things, interlocking directorships and common officers – enabled defendants to create, sustain and conceal the existence and operation of this unlawful enterprise from Odyssey Re London. While appearing initially to be separate entities, with separate corporate existences, during the time of defendants enterprise, many of these "companies" in fact operated out of the same offices, and always in concert with each other, distinguished merely by separate telephone lines and internal reference numbers.

² The "Stirling Cooke entities" include SCB Holdings, SCB Holdings (UK), SCB Insurance Brokers, SC North American in Holding, SC Texas, SC Risk Mgmt., SCIS, SC New York Agency, SCB North American, Realm Investments, Realm National, CIRCL and Raydon.

FACTUAL BACKGROUND

46. The enterprise is comprised of companies and individuals involved with U.S. worker's compensation insurance business. A number of insurers and reinsurers of this business delegate their underwriting authority to agents or Managing General Underwriters ("MGUs") who are part of the illegal enterprise that is the subject of this complaint. The MGUs control a material share of the U.S. worker's compensation market written by U.S. domiciled insurance companies. The ability of these MGUs to compete successfully in the U.S. marketplace largely depends on their fraudulent inducement of well-known and regarded reinsurers to "accept" risks at severely underpriced premium. When those MGUs (or others participating in the enterprise) can induce reinsurers to provide underpriced capacity, they are free to, in affect, "buy" business for the risk-bearing companies they represent by artificially lowering the price of workers compensation insurance to U.S. employers. The MGUs then earn significant management fees from underwriting the underpriced business before reinsuring it with companies like Odyssey Re London. These MGUs are controlled by or affiliated brokers earn significant commissions for placing reinsurance for the underpriced business. Through the enterprise, the agents, brokers, and intermediaries have the ability to reinsurance and retrocede the underpriced worker's compensation business thereby generating fees and commissions for themselves.

47. Ultimately, the enterprise's scheme is dependent on controlling reinsurers through ownership or delegated underwriting authority in which the underpriced business can be placed.

48. The U.S. companies on which the business was written include John Hancock, Clarendon National Insurance Company, Clarendon America Insurance Company, All

American Life Insurance Company, U.S. Life Insurance Company, Trustmark Insurance Company, Phoenix Home Life and Realm National. Some of these insurance companies delegated underwriting authority to JEH Re, Centaur, WEB and Raydon. The administrative functions of JEH Re and Raydon are performed by their affiliate, Realm Investments. Realm Investments, in turn, is owned by SCB Holdings and in turn is controlled by Cooke, Brown and Billyard.

49. The brokers and intermediaries through whom the fraudulent business was routed to Odyssey Re London include SCB North American, a wholly owned subsidiary of SC North American Holdings, which in turn is a wholly owned subsidiary of SCB Holdings; and SCB Insurance Brokers and SCB Reinsurance Brokers, both of which are wholly owned subsidiaries of SCB Holdings (UK), which in turn is a wholly owned subsidiary of SCB Holdings. Other involved brokers include SC Texas, SC Risk Mgmt, and SC New York Agency, all of which are ultimately owned or controlled by SCB Holdings.

50. During the early and mid-1990s, these affiliated MGUs, brokers, and intermediaries reinsured underpriced business they controlled with, amongst others, Lloyds Syndicate 103, Chubb and Lloyd's Syndicate 957. Henton and Bird were underwriters for Syndicate 103. Henton was an associate of Whitcombe's; Whitcombe was an underwriter for another Lloyds Syndicate controlled by the same agency that controlled Syndicate 103, and was also a "name" in Syndicate 103. Defendant Billyard was the underwriter for Chubb through. Duncanson & Holt, and Cackett was the underwriter for Syndicate 957.

51. By 1996, Syndicate 103 was no longer accepting new business, Billyard was no longer at Duncanson & Holt and Cackett was no longer at Syndicate 957. Consequently, the defendants required new reinsurers in order to perpetuate the continued success of the

enterprise.

The Scheme Against Odyssey Re

52. Whitcombe and Henton agreed with the Stirling Cooke entities to identify and solicit new reinsurers to reinsure the underpriced business produced by the Stirling Cooke entities.

53. Defendants embarked upon a scheme to solicit Odyssey Re London to assume the Stirling Cooke entities underpriced reinsurance business and to use the Binding Authority extended to Whitcombe and Euro International as a vehicle through which to reap for their own benefit millions of dollars in "management fees" and "brokerage commissions," while shifting the material portion of the losses to Odyssey Re London through a complicated series of transactions.

54. Various defendants committed overt acts in furtherance of this agreement by obtaining Binding Authority from Odyssey Re London, offering, soliciting and accepting inwards reinsurance on behalf of Odyssey Re London, placing and accepting outwards reinsurance on behalf of Odyssey Re London, and making the misrepresentations and omissions set forth below in order to maintain the viability of the fraud.

55. By virtue of the corrupt agreement among the defendants and the other parties to the agreement, the acts of each individual defendant and other parties to the agreement are attributable to each and every other named defendant and party to the agreement.

56. During mid-1996, Odyssey Re London was approached by Holman who asked whether Odyssey Re London might be interested in granting a Binding Authority to Whitcombe to underwrite a book of general "personal accident" business. ³ Odyssey Re

London declined.

57. A few months later, Odyssey Re London was asked to reconsider the proposal. Further discussions took place, and Odyssey Re London was then shown a "Background Report" prepared by Whitcombe concerning the potential scope of the account he wished to develop. The "Background Report" states, in relevant part:

*EIU proposes to underwrite a **low to medium risk portfolio**, a combination mix that will be achieved through specialization in the proposed classes of business and the accessibility through the long-standing relationships with international production sources.*

...

*In essence, the accident and health sector is deemed **short-tail** and therefore requires little further reserve on expiry enabling higher release of profit. ... The primary objectives of the company are to afford clients and brokers the opportunity to place their business with an entity offering first class security and services, fair and reasonable assessment of their needs whilst, at the same time, providing **rational and proven return to the insurance carrier**. ...*

*The business of the company will, in the main, **be introduced through Lloyd's approved brokers enjoying long and proven established relationships with the underwriters**, although this will not preclude acceptance of business on a direct basis.*

... informal discussions with many major London broking houses for established unqualified support for this venture.

... personal accident will be underwritten on its own or in conjunction with other related classes, such as sickness, comprehensive travel and the like. The global market for such business is in the region of £2 billion.

³ Traditional "personal accident" risks typically include individual accidents, kidnap and ransom, travel accounts, and sports injury risks.

... The key to underwriting a personal accident and health account is the sound knowledge of the market and a prudent assessment as to the requirements of any reinsurance programme purchased to protect the account underwritten. **The portfolio of business written will have an assessable exposure to any one or series of events, and extensive reinsurance to protect this will be placed with top rated security in the world-wide market. Consequently, profits can e reasonably predicted** ...

As regards personal accident, this does have the potential for a catastrophe type exposure and particular attention must be paid in recording known concentrations of risk and build up of accumulations from excess of loss writings to insure that sufficient vertical protection is purchased. ... Whilst one has no whitening intention to do other than afford a fair risk to reinsurers, it is crucially important that the company's exposure, both in terms of vertical catastrophe and attritional aggregates are recognized and catered for."

58. Subsequently, under cover of a letter dated November 1, 1996, a formal "Business Plan" prepared by Whitcombe was submitted to Odyssey Re London confirming and reiterating earlier representations. This Business Plan, in relevant part, states:

EIU proposes to underwrite a low to medium risk portfolio, a combination mix that will be achieved through specialization in the proposed classes of business and the accessibility through the long-standing relationships with international production sources.

...In essence, the accident and health sector is deemed short-tail and therefore requires little further reserve on expiry, enabling high release of profit. ...

In order to establish the Company on a sound and profitable basis it is the intention to concentrate exclusively on those areas of insurance and reinsurance in which the underwriters have extensive knowledge and expertise.

The business of the company will, in the main, be introduced through Lloyd's approved brokers enjoying long and proven established relationships with the underwriters, although this will not preclude acceptance of business on a direct basis.

Informal discussions with many major London broking houses for established unqualified support for this venture.

The principal classes of business to be written initially will be Personal Accident and Health, Bankers Blanket Bonds, Professional Indemnity (ex USA), General Third Party/products Liability (ex USA)

Personal Accident will be underwritten on its own or in conjunction with other related classes such as sickness, comprehensive travel and the like. The global market for such business is in the region of £2 billion.

The key to underwriting a personal accident and health account is a sound knowledge of the market and prudent assessment as to the requirements of any reinsurance programme purchased to protect the account underwritten. The portfolio of business written will have an assessable exposure to any one or series of events and extensive reinsurance to protect this. This will be placed with top rated security in the world-wide market. Consequently, profits can be reasonably predicted...

As regards Personal Accident, this does have the potential for a catastrophe type exposure and particular attention must be paid in recording known concentrations of risk and build up of accumulations from excess of loss writings to ensure that sufficient vertical protection is purchased.

The company's gross writings will be protected by excess of loss reinsurance placed with United Kingdom authorized insurance companies. Lloyd's underwriters and major companies elsewhere in the world (principally Europe and North America) by experienced specialist insurance and reinsurance brokers. It is also intended to effect aggregate reinsurance to limit attritional net losses for certain parts of the account underwritten."

59. Following further discussions, it was represented that the personal accident business to be underwritten for Odyssey Re London would be comprised of direct risks and facultative reinsurance. Direct business is insurance of original insurers. Facultative reinsurance would include excess of loss protections of the personal accident accounts of

direct insurers, specifically reinsurance of identifiable insurance policies and contracts. It would not, however, include retrocession business where the underlying account included treaty reinsurance, which is reinsurance of an entire book of business. As described in detail below, virtually none of the reinsurance purportedly bound pursuant to the Binding Authority would turn out to be either direct or facultative.

60. It was also represented to Odyssey Re London was that each risk accepted by Whitcombe would first be assessed, priced and accepted by an independent and well-established specialist underwriter. As explained in detail below, at every turn, these "specialists" actually were the defendants and their affiliated and controlled entities. Ultimately, there never was an appropriate application of underwriting techniques by such specialists to assess the insurance and reinsurance risks being transferred to Odyssey Re London. At no time during the solicitation of Odyssey Re London did Whitcombe disclose that he was acting on behalf of and in concert with the defendants.

61. In light of the various representations made to it, including those contained in the "Background Report" and "Business Plan" prepared by Whitcombe, Odyssey Re London agreed to grant the Binding Authority, the general terms of which were reflected in a "slip."

62. The key features of the slip, which contained the terms of the Binding Authority, originally were:

- Holman was the agent (or coverholder);
- Whitcombe was the named underwriter, authorized to accept risks pursuant to the Binding Authority;
- Binding authority was given to Holman for designated "personal accident" and related classes of underlying insurance business;
- The term of the binding authority was continuous from January 1, 1997, subject to cancellation at any time;

- The original premium income limit was £2 million, but the parties agreed to review the development of the account at the end of March 1997 to better determine then a more permanent limit of the Estimated Gross Premium;
- All business accepted on behalf of Odyssey Re London was to be co-insured or reinsured following recognized markets leaders;
- Limits were established for incoming business of \$ 1 million of risk for any one person, \$ 10 million of risk for any one known accumulation, but those limits would increase to \$ 2 million of risk for any one person once excess loss protection [reinsurance] was established protecting Odyssey Re London; and
- Limits were placed on the permissible deductions from premiums that were designed to ensure that Odyssey Re London received at least 60% of the gross premium income charged by the original insurer to the original insured.

63. Whitcombe established Euro International as the entity through which he would operate this sub-delegation of underwriting authority and the slip was subsequently amended accordingly.

The fraudulent Acceptance of Reinsurance on Behalf of Odyssey Re

64. When Odyssey Re London executed the slip, Whitcombe had no intention of bidding risks consistent with the representations made to Odyssey Re London and within the scope of the Binding Authority. This is because Whitcombe, through the enterprise, had substantial business in hand that was neither low to medium risk nor traditional personal accident business. Instead, Whitcombe wrote long-tail, high risk, underpriced reinsurance; much of the business ultimately accepted by Whitcombe on Odyssey Re London's behalf consisted of U.S. worker's compensation reinsurance business produced by and through the Stirling Cooke entities. In fact, throughout the term of the Binding Authority, the Stirling Cooke entities produced approximately 92% of the business accepted by Whitcombe and Euro International.

65. Acceptance of such business was both beyond the scope of Whitcombe's authority and grossly underpriced with losses known or expected to substantially exceed premiums. The defendants were aware that it was not commercially reasonable for Whitcombe to accept the business and knew that no faithful and honest agent would agree to accept the business at the agreed-upon rates. The Binding Authority provided that all business to be bound was "warranted ... written on a co-insurance or reinsurance basis following recognized Market Leaders," unless Whitcombe obtained prior written approval. Despite this provision, Whitcombe continually accepted business on behalf of Odyssey Re London wherein Odyssey Re London led the contracts and provided the bulk of the reinsurance, while falsely representing to Odyssey Re London that he was acting solely within the Binding Authority. Defendants knew or had reason to know that Whitcombe's acceptance of business as leading underwriter was beyond the scope of his authority.

First JEH Re Program

66. On February 12, 1997, the same date that Euro International became capable of conducting business under English law, Whitcombe wrote eight layers of an excess of loss reinsurance program reinsuring John Hancock (as underwritten for by defendants JEH Re and Billyard) (the "First JEH Re Program"). That program provides coverage for losses occurring during the period of 12 months commencing January 1, 1997. The information accompanying the program and which was in Whitcombe's files stated that 100% of the underlying business to be reinsured was excess of loss treaty business.⁴ However, whitcombe fraudulent concealed the true nature of this transaction that clearly was beyond the scope of the Binding Authority, and beyond the presentations made to Odyssey Re London concerning the types of

business it would reinsure. Had Odyssey Re London been in possession of the information Whitcombe withheld Odyssey Re London would have terminated the Binding Authority.

67. Acting in concert with Billyard (JEH Re's president) and the SCB entities, Whitcombe agreed to write the following layers of the First JEH Re Program:

- \$400,000 excess of \$100,000 (Odyssey Re London: line 33.33% at a Rate of 8% of Annual Net Premium Income);
- \$500,000 excess of \$500,000 (Odyssey Re London: line 33.33% at a Rate of 4.25%);
- \$500,000 excess of \$1,000,000 (Odyssey Re London: line 25% at a Rate of 3%);
- \$500,000 excess of \$1,500,000 (Odyssey Re London: line 25% at a Rate of 2.25%);
- \$500,000 excess of \$2,000,000 (Odyssey Re London: line 25% at a Rate of 2%);
- \$500,000 excess of \$2,500,000 (Odyssey Re London: line 25% at a Rate of 1.7%);
- \$500,000 excess of \$3,000,000 (Odyssey Re London: line 25% at a Rate of 1.3%); and
- \$500,000 excess of \$3,500,000 (Odyssey Re London: line 25% at a Rate of 1%);

68. Euro International's records reveal that the First JEH Re Program risk presentations made to Whitcombe, Henton and Euro International by the SCB entities were accompanied by loss statistics showing that each of these contracts was highly likely to be

⁴ "Excess of loss" reinsurance generally describes reinsurance that, subject to a specified limit, indemnifies a reinsured against all or a portion of the amount of loss in excess of the reinsured's specified loss retention. "Aggregate" reinsurance generally describes reinsurance that indemnifies the reinsured against the amount of losses incurred (net after reinsurance recoveries) that exceed either an agreed amount or an agreed percentage of some other business measure (most typically, net premiums).

Catastrophically loss-making. These significant, material facts were knowingly concealed from Odyssey Re London although they were well known to the defendants who placed this business.

69. For example, the statistics accompanying the first layer of the First JEH Re Program (\$400,000 excess of \$100,000) showed that a reinsurer participating in that contract for the three years before 1997 would have received approximately \$858,000 of premiums, but would already have incurred losses in excess of **\$54 million**.

70. Similarly, the statistics accompanying the second layer of the First JEH Re Program (\$500,000 excess of \$500,000) showed that for the same three year period a participating reinsurer would have received premium of approximately \$380,000, but would already have incurred losses in excess of **\$21 million**.

The American Reliable Program

71. Later in February 1997, Whitcombe also wrote three layers of an excess of loss reinsurance program reinsuring American Reliable Insurance Company (the "American Reliable Program"). That program provides coverage for losses occurring during the period of 12 months commencing January 1, 1997, as follows:

- \$490,000 excess of \$10,000 (Odyssey Re London: line 90%, with unlimited reinstatements);
- \$750,000 excess of \$500,000 (Odyssey Re London: line 55%, with unlimited reinstatements); and
- \$1,250,000 excess of \$5,000,000 in the aggregate (Odyssey Re London: line 55%, with unlimited reinstatements).

72. Whitcombe led the American Reliable Program rather than following a recognized market leader. Acceptance of the placement on a leading basis was beyond the scope of the Binding Authority.

73. Euro International's and Whitcombe's underwriting files reveal that, contrary to industry practice, no statistics accompanied the proposals for these layers. Odyssey Re London has recently learned that the underlying business protected by this program consisted almost entirely of treaty business (on an excess of loss and proportional basis) and also included a significant portion of American Reliable's assumption of the run-off exposure of prior loss-making treaty business. Based on their past participation with such business, the defendants knew that this program would generate extraordinary losses to any reinsurer.

74. The loss-making nature of the American Reliable Program has been catastrophic. As on December 31, 1998, claims of in excess of **\$20 million** have been presented to Odyssey Re London under the American Reliable Program against scheduled premium of slightly over \$1 million.

75. Defendants also intentionally structured and concealed from Odyssey Re London the fact that the American Reliable Program was being used surreptitiously to increase Odyssey Re London's participation in each contract in the First JEH Re Program by up to 50%. Odyssey Re London recently has learned that American Reliable had itself written a 50% line on each of the contracts in the First JEH Re Program described above, as well as a 50% line on a lower layer in the First JEH Re Program that provided reinsurance of \$90,000 excess of \$10,000. Because Odyssey Re London reinsures American Reliable, American Reliable's participation in the First JEH Re Program has been laid off on Odyssey Re London, thereby dramatically increasing Odyssey Re London's exposure to the huge

liabilities associated with the underlying treaty business.

76. Had Odyssey Re London been aware of the true nature of the American Reliable Program and its relationship to the First JEH Re Program (both of which were wholly outside the contemplated and stated scope of the Binding Authority) it would have immediately terminated the Binding Authority.

The Phoenix Home Life Program

77. In February 1997, Whitcombe accepted four layers of an excess of loss reinsurance program reinsuring Phoenix Home Life insurance Company (the "Phoenix Home Life Program"). Like the American Reliable Program, Whitcombe led the Phoenix Home Life Program. The Phoenix Home Life Program provides coverage for losses occurring during the period of 12 months commencing January 1, 1997 in the following layers:

- \$480,000 excess of \$20,000 (Odyssey Re London: line 90%, with unlimited reinstatements);
- \$500,000 excess of \$500,000 (Odyssey Re London: line 90%, with unlimited reinstatements);
- \$500,000 excess of \$1,000,000 (Odyssey Re London: line 90%, with unlimited reinstatements);
- \$500,000 excess of \$1,500,000 (Odyssey Re London: line 90%, with unlimited reinstatements).⁵

78. As with the First JEH Re Program, the submissions of these risks to Whitcombe were accompanied by loss statistics demonstrating that each contract would develop

⁵ Defendant SCB Insurance Brokers (self-described as "in account with" defendant SCB Reinsurance Brokers) served as intermediaries, through whom all communications and payments relating to the contracts are transmitted.

tremendous losses, far greater than the premium paid or payable for the reinsurance. The statistics on the first layer (\$480,000 excess of \$20,000) showed that the reinsurers participating in that contract for the three years before 1997 would already have incurred losses in excess of **\$92 million**. The contemporaneous premium payable was estimated to be approximately \$600,000. Similarly, the statistics accompanying the second layer (\$500,000 excess of \$500,000) showed that the reinsurers participating in that contract for the three years before 1997 would already have incurred losses in excess of **\$22.6 million**. The contemporaneous premium payable was estimated to be approximately \$250,000.

79. Further, by facsimile from Phoenix dated June 30, 1997, SCB Insurance Brokers, the intermediary hat presented the account to Whitcombe, was told that the Phoenix Home Life Program contained exposures to retrocessional excess of loss business (including run-off exposures) as well as to underlying workers compensation reinsurance. Defendants therefore knew the account was outside the scope of Whitcombe's authority and that the premium to be paid could not conceivably cover the expected losses.

80. In furtherance of defendants scheme, the Phoenix Home Life program also was used to increase Odyssey Re London's participation in the American Reliable Program, and hence, in the First JEH Re program. In December 1998 Odyssey Re London learned that tha 10% balance of each of the contracts (or layers), and 100% of the risk on three further layers (\$500,000 excess of \$2,000,000; \$500,000 excess of \$2,500,000; and \$500,000 excess of \$3,000,000) in the Phoenix Home Life Program described above had been assumed by the American Reliable Program and thus was reinsured by Odyssey Re London. Defendants withheld this information from Odyssey Re London.

81. Almost all of Phoenix Home Life's exposure in respect of the underlying (and

historically catastrophically loss-making) treaty business thus was surreptitiously reinsured into Odyssey Re London, either directly or indirectly through American Reliable (whose own catastrophic exposures were similarly reinsured into Odyssey Re London).

82. By the end of February 1997 (or, at the latest, by early March 1997), and, therefore, within approximately six weeks of Odyssey Re London having agreed to the Binding Authority, the defendants, acting through Whitcombe and Euro International, knowingly and surreptitiously placed risks into Odyssey Re London that the defendants knew were outside the scope of Whitcombe's authority and were guaranteed to generate losses running into tens of millions of dollars. The cession of these risks to Odyssey Re London was part of the defendants pre-existing plan to defraud Odyssey Re London into reinsuring business that was grossly underpriced and that was certain to generate disproportionate losses and that plainly and fundamentally contradicted the representations made to Odyssey Re London.

The Lincoln National Program

83. In February 1997, Whitcombe accepted four contracts that provided reinsurance of Lincoln National Insurance Company for its exposure arising from risks underwritten (by Lincoln National Life) before January 1, 1996 and for new business underwritten during the twelve month period commencing January 1, 1997.

84. The run-off element of this program specifically excluded exposures arising out of certain classes of retrocessional treaty business. However, the Lincoln National Program (together with the Phoenix Home Life Program) ensnares Odyssey Re London into an even more catastrophic "book" of business with significant other problems that are now just

coming to light.

85. Phoenix Home Life and Lincoln National are (or were) members of a workers compensation reinsurance pool operated by Unicover Managers Inc., which operates in New Jersey and Illinois, and whose stated corporate mission is "to provide treaty reinsurance of workplace injuries, whether policies are written on Workers Compensation or A&H to first dollar." Upon information and belief, the Lincoln National Program includes reinsurance of risks emanating from this pool. As is true for many of these programs, defendant SCB Reinsurance Brokers is the designated intermediary, through whom all communications and payments relating to the reinsurance contracts are transmitted to and through SC North American in New York.

86. The Unicover pool grew larger than initial representations, thus exposing participating companies to significant, underpriced risk – risk far greater than expected. According to recent press reports, the Unicover pool's gross subject premiums reached \$7.97 billion at the end of 1998. The Unicover pool presently is unraveling. For an undisclosed reason, on or about January 25, 1999, one of the pool's primary reinsurers, Sun Life, terminated its reinsurance of the pool. Sun Life's reinsurance of the Unicover pool was underwritten by Cackett and Centaur. On or about January 28, 1999, one of the pool participants, Cologne Life Re, ordered Unicover to stop writing business in its behalf. On February 24, 1999, Cologne Life Re announced that it faces losses of up to \$275 million arising from its participation in the pool.

87. Insurance industry analysts have now publicly estimated that the expected loss from the Unicover pool, which will particularly impact retrocessional markets, could be in the range of \$1 billion to \$2.5 billion in part because reinsurers were not aware that the

premium they received from insurance companies did not cover the risks assumed. In a significant admission, the CEO of Unicover's parent company has been quoted as saying that " we were aware that certain layers of retrocession coverage were priced at levels that were not sustainable long-term." It has become clear that Unicover was able to grow to its mammoth size on the back of ruinous retrocession contracts fraudulently procured by, among others, the defendants. Through retrocession contracts bound by Whitcombe, Henton and Euro International, indirectly and, upon information and belief, directly reinsuring certain of the Unicover pool members, Odyssey Re London has been unwittingly and fraudulently ensnared in the rapidly developing and certain to be disastrous Unicover pool. Reinsurance of such business was not contemplated by Odyssey Re London, and bears no resemblance to the type of business Odyssey Re London authorized to be written under the Binding Authority.

88. Through their strategically created network of owned and controlled MGAs (who produced the underlying original insurance business), insurance companies, and MGUs (who, through positions of trust, manipulated the reinsurance of the original business) and while engaging in significant self-dealing, the defendants used Odyssey Re London to reinsure workers compensation and occupational hazard insurance, exposing Odyssey Re London to losses many times greater than the premiums it will receive for assuming such risks.

89. To conceal the enterprise's true operations and intentions, and to deceive and induce Odyssey Re London to continue to provide the reinsurance capacity needed by the enterprise to achieve its goals of forestalling discovery of the reinsurance spiral while continuing to receive exorbitant income streams, the defendants would from time-to-time submit false status reports, prepared by Whitcombe, Henton and Euro International, to

Odyssey Re London. These plans and reports intentionally misdescribed the events and fraudulently inducing Odyssey Re London to continue its unknowing participation in defendants scheme.

90. In addition, defendants increased their efforts to secure even greater income for themselves with every risk transfer. On July 14, 1997, Whitcombe and Euro International, via Holman, proposed an amendment to the "deductions" provision of the Binding authority that would increase the maximum deduction figure by 2.5%. In requesting this amendment, Holman represented that, in the absence of an increase, Euro International would not be able to after competitive rates while allowing producing brokers sufficient commission to secure direct business. Given that Whitcombe and Euro International had never secured and had no intention of ever securing direct business, however, this representation was false.

91. During November 1997, Whitcombe prepared an "Underwriters Report" supposedly for the purpose of updating Odyssey Re London on the status of the account. In this document, it was represented that the facility was developing according to plan and that traditional personal accident business, including credit card and travel accounts, made up the majority of the reinsurance written. Given the course of subsequent events, it is remarkable that there is no mention whatsoever in this Underwriters Report of workers compensation business. These representations, which were designed to induce Odyssey Re London to continue its support for the Binding Authority into 1998, were deliberately false and misleading in every material respect. The representations made in the report and the reinsurance protections to be arranged induced Odyssey Re London to permit and increase in the premium income limit. By virtue of the increased premium income limit, the enterprise was able to use Odyssey Re London as a depository for even more of the grossly underpriced

business, in the process taking additional commissions and management and brokerage fees.

92. the representations that in part induced Odyssey Re London to agree to the increase in the premium income limit were then repeated in a further report prepared by Whitcombe in January 1998. The report stated as follows:

Account Written 1997

We are pleased to report that we have managed to achieve a significant growth in the business written to the 1997 account in the final quarter of the year. The total gross premium written calculated using the brokers forecasts was \$12,000,000. In achieving this figure we have also redressed the account split by type of business more in line with our original forecasts. A revised information sheet is attached reflecting this position.

The account written now has a core of good quality direct Personal Accident business which includes the occupational accident product we previously described in our Business Plan and was one of our objectives for the year. This line of business has traditionally been written in the Personal Accident market in London and abroad and categorized by both insurers and reinsurers alike as part of their 'direct' account. The lions share of this business is placed by Stirling Cooke Brown in a carefully selected market. This is our source. As a class it is now producing a better loss ratio after reinsurance than many more traditional P.A., areas which through market over capacity and strong competition for business have suffered some severe rate reductions. That is not to say that this class is without competition indeed several London brokers and many domestic insurers in the States provide a constant threat to established accounts. However by strict adherence to underwriting guidelines and the continual development of new and innovative products within the field Stirling Cooke Brown are able increase their premium volume whilst maintaining an attractive bottom line result.

93. These representations were false in every material respect. The account did not have a "core of good quality direct personal accident business." It did not contain any direct personal accident business (whether good quality or otherwise) to speak of.

94. Instead, Odyssey Re London remained entirely unaware of its true position (which the defendants continued to conceal). In light of the represented position, and the continued apparent profitability of the account, Odyssey Re London agreed on February 11,

terminable by Odyssey Re London at any time, on notice) could not be cancelled before June 30, 1999.

95. In addition, in February 1998, Odyssey Re London was asked to agree to an endorsement whereby Whitcombe and Euro International would be entitled on behalf of Odyssey Re London to lead on certain facultative risks that simply followed the term and conditions of the original policies. It was explained that although, technically, Odyssey Re London would be "leading" the reinsurance, it would not be setting the rate or quoting the placement. In reliance on this representation, Odyssey Re London agreed, on a going-forward basis, to the endorsement.

96. In contravention of the Binding Authority and the representations made to Odyssey Re London, Whitcombe via Euro International had been using Odyssey Re London to lead on treaty risks since long before Odyssey Re London agreed to relax the restrictions in February 1998. At the time that the endorsement was requested, Whitcombe and the enterprise had no intention of curtailing their unauthorized use of Odyssey Re London as lead reinsurer to lead only on facultative risks. Rather, Whitcombe and the enterprise intended to continue to accept and did accept, on Odyssey Re London's behalf, the lead on treaty business throughout the term of the Binding Authority.

97. A further aspect of the fraud on Odyssey Re London occurred on December 24, 1997 (at a time when Odyssey Re London had yet to approve the quotes of its own reinsurance protections). On Christmas Eve, Whitcombe, Henton and Euro International accepted 40 separate risks (the "Christmas Eve Placements"), all produced by and for the financial benefit of the Stirling Cooke companies and related entities, including Realm National, Clarendon National and Clarendon America (as represented by Raydon), John

Hancock (as represented by JEH Re), All American Life (as represented by WEB) and CIGNA Re Europe (as represented by Bird).

98. Among other things, the Christmas Eve Placements transferred to Odyssey Re London additional risks arising out of the U.S. workers compensation business. There was no sign whatsoever of the direct personal accident business (such as travel accounts or credit card business) that had been represented in the business plan submitted only a month before. Far from being low to medium risk short-tail personal accident business, the Christmas Eve Placements introduced substantial exposures to long-tail and high-risk (for example, "black-lung") workers compensation business including business emanating from WEB and Unicover. Indeed, the central purpose of the Christmas Eve Placements was to generate (through the deduction of brokerage, management fees, commissions and the like) significant and essentially risk-free income for the defendants while channeling a substantial part of the commensurate underlying exposure into Odyssey Re London for premiums that had, by then, been largely eroded by manipulations of the Racketeers.

99. In the period between December 24, 1997 and July 9, 1998, Whitcombe, Henton and Euro International accepted dozens of risks from SCB related entities. These risks, which all reinsure entities owned or controlled or underwritten for by the defendants, fall into two categories: (1) those that reinsure specifically identifiable underlying workers compensation insurance accounts (the "Specific Retrocessions"); and (2) those that reinsure general programs of non-specifically identified workers compensation insurance risks ceded by those companies (the "General Programs").

100. The Specific Retrocessions, many of which are described in detail below, include:

- The Realm Program;
- The Bridgefield Retrocession;
- The Clarendon/Hallmark Retrocession;
- The Clarendon MELEX Retrocession;
- The Clarendon Truckers Retrocession;
- The Unicare Retrocession; and
- The SCB Temps Retrocession.

101. The General Programs are as follows:

- The JEH Re 10/1/97 Direct Program;
- Clarendon/Raydon 5/1/97 excess of loss Program;
- CIGNA Re Programs;
- 1997 WEB Programs;
- 1997 Centaur Programs;
- Chiyoda 1/1/98 Program;
- Clarendon America Direct A/C 1/1/98 Program;
- Clarendon 4/30/98 Program;
- The John Hancock Quota Share; and
- The John Hancock Non-Proportional Quota Share.

102. As set forth below, the defendants fraudulent conduct as to Odyssey Re London took a variety of forms and involved different "techniques" that all had the same ultimate result – namely that the defendants earned significant profit from the transactions at Odyssey Re London's expense and to Odyssey Re London's financial detriment.

WEB Programs

103. A number of the Specific Retrocessions and General Programs protect business written by or emanating from WEB.

104. As described above, WEB is engaged as an MGU underwriting on behalf of various insurance companies, including All American Life Insurance Company, US Life Insurance Company and Trustmark Insurance Company. Upon information and belief, WEB,

like Unicover, underwrites "first tier" treaty reinsurance for blocks of primary workers compensation business at significantly discounted rates. Defendant WEB also underwrites retrocessional treaty business, often as a co-subscriber alongside other defendants.

105. WEB's capacity to offer underpriced first tier reinsurance (and hence its attractiveness as a reinsurance facility for primary workers compensation insurers) depends on its ability to purchase (for the companies for which it underwrites) retrocessional protection that, in turn, is even more grossly underpriced.

106. WEB's retrocessional protection is provided almost exclusively through the Racketeers enterprise, as is evident from a series of facsimile transmissions sent by Robin Ekwall of WEB from WEB's offices in Bloomfield Connecticut to, amongst others, Peter Cleary and Jeff Butler of SCB Reinsurance Brokers, which attached "Letters of Credit Worksheets." Together, these facsimile transmissions constituted requests by WEB for SCB Reinsurance Brokers to obtain letters of credit from, among others, Odyssey Re London.

107. The details of WEB's retrocessional program are evident from the Letters of Credit Worksheets, and reveal that the defendants were involved in placing all of WEB's retrocessional protection with Odyssey Re London and other risk-bearing companies within WEB's underwriting control.

- The WEB Variable Quota Share Retrocession. Subscribing reinsurers: 23.81% John Hancock (per JEH Re), 23.81% Clarendon (per Raydon), 15% Sun Life (per Centaur), 15% American Phoenix (per Centaur), 7% Lloyd's Syndicate 53, 2.49% Lloyd's Syndicate 490, 0.51% Lloyd's Syndicate 2490, 9.52% Chiyoda, 2.86% AIG.
- The WEB Variable Quota Share London Market Excess Retrocession."

Subscribing reinsurer: 100% John Hancock (per JEH Re).

- "Per Risk Retrocessions." Subscribing reinsurers (participations identical on all layers): 25% John Hancock (per JEH Re), 50% Clarendon (per Raydon), 12.5% Sun Life (per Centaur), 12.5% American Phoenix (per Centaur).
- "International Retrocessions." Subscribing reinsurers (varying participations on different layers): John Hancock (per JEH Re), Clarendon (per Raydon), odyssey Re London (per Euro International), CIGNA (per Alan Bird).
- "Unicare Retrocessions." SCB. Subscribing reinsurer: 100% Odyssey Re London (per EIU).
- "Superior National Retrocession." Subscribing reinsurer: 100% CIGNA (per Alan Bird).
- "Unicare Retrocession." Subscribing reinsurer: 100% Odyssey Re London (per EIU).
- "Hallmark Retrocession." Subscribing reinsurer: 100% Odyssey Re London (per EIU).
- "XS London Market Excess Retrocession." Subscribing reinsurers: 100% John Hancock (per JEH Re).

108. Accordingly, the information currently available to Odyssey Re London demonstrates that, with the exception of lines totaling approximately 23% on the WEB Variable Quota Share Retrocession, the entirety of WEB's retrocessional capacity was provided by Billyard (for John Hancock through JEH Re), Bird (for CIGNA), Cackett (for Sun Life and American Phoenix through Centaur), Raydon (for Clarendon) and Whitcomb and/or Henton (for Odyssey Re London through defendant Euro International). Each and very

contract was brokered by defendant SCB Reinsurance Brokers.

The Unicare Retrocession

109. The Unicare Retrocession, placed through SCB Reinsurance Brokers, consist of a retrocession of All American Life's participation in an excess of loss reinsurance of Unicare, a California based insurance company specializing in workers compensation insurance.

110. The Unicare Retrocession is designed to generate a guaranteed profit to All American but is projected to produce a loss ratio of approximately 400% to Odyssey Re London. In simple terms, it amounts to nothing more than an agreement to sell Odyssey Re London's dollars to the companies underwritten for by WEB for 25 cents per dollar.

111. Effective January 1, 1998, according to AM Best's, Unicare purchased a reinsurance agreement for a layer of \$475,000 excess of \$25,000, covering much of its workers compensation portfolio. This contract was reported to have been provided by a member of the Orion Capital group of insurance companies.

112. Sometime later in 1998, efforts were undertaken to replace the original reinsurer, for reasons presently unknown to Odyssey Re London. Eventually, the contract was replaced by All American Life Insurance Company, underwritten for by WEB.

113. WEB, on behalf of All American, wrote the layer of \$475,000 excess of \$25,000 per occurrence (the "WEB Layer") in the expectation that it would retrocede its risk through another reinsurance transaction. The secondary transaction was for a layer of \$465,000 excess of \$10,000, which in turn was to be excess of Unicare's retained \$25,000. This secondary transaction is the Unicare Retrocession.

114. The Unicare Retrocession was placed by SCB Insurance Brokers, and was accepted by Whitcombe, Henton and Euro International on June 19, 1998, back-dated to January 1, 1998. Odyssey Re London was to receive 43% of the net premium obtained on behalf of All American. Information included in the acceptance file indicates that 75% of the losses for which All American would otherwise be liable would be transferred to Odyssey Re London. All American would keep 57% of the premium for 25% of the loss.

115. Information further indicates that the losses to be transferred to Odyssey Re London over the term of the contract will exceed \$42 million. Information further indicates that the gross premium All American would pay for the contract would be in the range of \$16.6 million, of which SCB Insurance Brokers would take a fee of \$2.5 million, and Whitcombe, Henton and Euro International would take \$2.075 million. Net of commissions and fees, the premium to be transferred to Odyssey Re London for paying the estimated \$42 million of claims would be approximately \$11.4 million.

116. Defendants false representations and material omissions, and Odyssey Re London's justifiable reliance thereon, enable defendants to fraudulently place this predictably and catastrophically uneconomic reinsurance with Odyssey Re London. The true nature of the transaction was concealed from Odyssey Re London and the defendants have since continued their efforts at concealment.

The Clarendon/Hallmark Retrocession

117. Trustmark, through WEB, reinsured a specific workers compensation program written by Clarendon (the "Clarendon/Hallmark Retrocession"). Odyssey Re London provides 100% retrocessional protection to Trustmark. The retrocession was

presented to Whitcombe on behalf of Odyssey Re London by SCB Insurance Brokers.

118. The Clarendon/Hallmark Retrocession (which was "underwritten" by the Euro International in January 1998) is structured to produce a projected loss ratio of approximately 590% to Odyssey Re London. In simple terms, it amounts to nothing more than an agreement to sell Odyssey Re London's dollars to the cedents for less than 20 cents on the dollar.

119. As originally structured in mid-1997, the Clarendon/Hallmark Retrocession provided workers compensation insurance in a variety of southern states underwritten by an Oklahoma based MGA named PCA Solutions, Inc. ("PCA"). PCA utilized Clarendon National (a New Jersey domiciled insurance and reinsurance company underwritten for by Raydon) to issue fronting policies for a portfolio of risks originally estimated to generate \$57 million in annualized premium. As part of the fronting program, these policies were immediately reinsured by Hallmark Re, which owned PCA. PCA was later sold to Humana Workers compensation Services.

120. In a November 4, 1997 memorandum to Clarendon National that later was provided to SCB Insurance Brokers and Euro International, Humana stated that "loss development... has become unacceptable." The memorandum explained that individual underwriters in states outside Oklahoma "did not follow underwriting guidelines" and that "renewals in Mississippi were not handled properly." Without disclosing any of this information, and obviously recognizing that the reinsurance of this program provided by Hallmark Re was in jeopardy, an alternative reinsurance structure for the Clarendon/Hallmark Retrocession was developed by the defendants – a program for which Odyssey Re London's capacity as fraudulently obtained.

121. In Mid-December 1997, an excess of loss reinsurance treaty for Hallmark's losses of \$475,000 excess of \$25,000 was underwritten by three Lloyd's of London Syndicates. These three Syndicates between them accepted 75% of the reinsurance risk on the original slip.⁶ At the stage, the balance of 25% remained unsubscribed.

122. On January 9, 1998, Whitcombe accepted a reinsurance contract, purportedly on behalf of Odyssey Re London of 100% of losses of \$465,000 excess of \$10,000 excess of \$25,000. The slip disclosed only that Odyssey Re London would be reinsuring "Various Lloyd's Syndicates and Others." The balance of the underlying reinsurance program was subsequently completed by Reliastar Reinsurance Group (as to 12,5% - signing down to 9.80%) and WEB on behalf of Trustmark (as to 40% - signing down to 31.37%).

123. As with the Unicare Retrocession, the Clarendon/Hallmark Retrocession was structured by the defendants to pass the greatest level of losses into the reinsurance layer accepted on Odyssey Re London's behalf (the Clarendon/Hallmark Risk) for grossly inadequate premium, while the premium was degraded by the removal of commissions and excessive risk premium in earlier layers of reinsurance.

124. In the other ways, however, the risk visited unique abuses upon Odyssey Re London. For example, only three weeks after the Clarendon/Hallmark Retrocession was accepted on Odyssey Re London's behalf the MGA (production source) for the underlying business was changed due to the original MGA's termination for the program "for cause." Coincidentally, this same MGA had complained in November 1997 that "loss development ... has become unacceptable."

⁶ The Syndicates each subscribed to a 25% line, although these were subsequently signed down to 19.61% when the slip was completed by Reliastar and WEB.

125. On January 28, 1998, the entire insurance and reinsurance program was changed. PCA was removed as the MGA "for cause," and was replaced by American Agency System, Inc. ("AAS"), a wholly owned subsidiary of Midlands Management Corp. In two facsimiles, dated January 30, 1998 and February 3, 1998, representatives of Midlands in Oklahoma advised Hugo Morris of SCB Insurance Brokers of all the "difficulties" in the reinsurance program and advised of PCA's termination and of AAS's new involvement in the Clarendon Hallmark Retrocession. The underlying slip was then rewritten to eliminate reference to PCA and Hallmark and to add reference to AAS. The three Lloyd's Syndicates and Reliastar executed the new underlying slip directly with Clarendon on February 2, 1998. The complete revision of the program was not presented to the Euro International in a new slip. Instead, Whitcombe accepted the revision of the program via endorsement two months later on **April 9, 1998**.

126. Finally, and again by endorsement, on September 5, 1998, the original premium estimation was lowered from \$57.1 million to \$34.6 million. Throughout, consistent with their past practices, Whitcombe and Henton engaged in no apparent underwriting analysis of the Clarendon/Hallmark Retrocession.

127. The gross reinsurance premium allocated to the \$475,000 excess of \$25,000 layer written by WEB, Reliastar and the three Lloyd's Syndicates was 18.5% of total premiums, or \$6.4. Brokerage paid to Midlands Management and SCB Insurance Brokers was 26% of that, or \$1.66 million, leaving \$4.74 million as excess risk premium. Of that amount, 63% or \$2.98 million was allocated to the \$10,000 excess of \$25,000 retention and the remaining 37% or \$1.75 million was allocated to Odyssey Re London's reinsurance of the \$465,000 excess of \$10,000 excess of \$25,000 portion of the original reinsurance.

128. A further 27.5% of the premium allocated to Odyssey Re London's layer, totaling \$482,000, was taken by SCB Insurance Brokers and Euro International as brokerage fees and commissions, leaving \$1.21 million for the payment of claims in Odyssey Re London's reinsurance layer.

129. The statistics contained in Euro International's file, which were available to Whitcombe and Henton at the time of the placement, show that approximately 70% of losses in the \$475,000 excess of \$25,000 layer would fail into Odyssey Re London's reinsurance of the \$465,000 excess of \$10,000 excess of \$25,000 portion of the original reinsurance. As noted above, Euro International agreed to accept the exposure for 37% of the net premium.

130. Based on a conservative estimate of original losses equal to 90% of the original premium, Odyssey Re London would become obligated to pay approximately \$7.1 million in losses for its participation in the Clarendon/Hallmark Retrocession. On a conservative basis, therefore, the contract is expected to generate losses representing **591%** of the risk premium provided to pay the losses. Information found in Euro International's file, however, indicates the original portfolio of workers compensation insurance covered by the Clarendon National Program was running at "disastrous loss ratios" well above the assumed 90%. If this is so, losses the Odyssey Re London could be even greater. After considering Odyssey Re London's participation, the losses for the remaining participants in the program were approximately 100% of the remaining risk premium. Thus, through Odyssey Re London's participation in the Clarendon National Program, the Racketeers were able to secretly pass the greatest level of losses into the reinsurance layer accepted on Odyssey Re London's behalf for grossly inadequate premium, while the premium was degraded by the removal of commissions and excessive risk premium in lower levels of reinsurance.

The WEB Variable Quota Share Retrocession

131. As alleged above, one of the retrocessional programs arranged for WEB was the so-called "WEB Variable Quota Share Retrocession." Variable Quota Share, is a form of proportional reinsurance that enabled WEB (on behalf of the companies or which it underwrote) to cede variable portions of its exposure from specific risks or contracts to those retrocessionaires participating in the WEB Variable Quota Share Retrocession.

132. The WEB Variable Quota Share Retrocession provides a graphic example of how the Racketeers scheme operated. Although Odyssey Re London (through Euro International) did not participate directly in the WEB Variable Quota Share Retrocession, the defendants arranged further retrocessional transactions that served no purpose other than to generate additional risk-free income for themselves without diluting the exposure before the risk finally was placed into Odyssey Re London for a premium that by then was substantially eroded.

133. The WEB Variable Quota Share was placed for WEB by SCB reinsurance Brokers to provide reinsurance of risks attaching on or after June 1, 1997. The brokerage payable to SCB Reinsurance Brokers was 3% of net premium income.

134. Thirty percent of the WEB Variable Quota Share was written by Cackett (for Sun Life and American Phoenix through Centaur). In turn, SCB Insurance brokers (in account with SCB Reinsurance Brokers) placed specific protection (on both an excess of loss and aggregate basis) for Sun Life and American Phoenix. This specific protection was written by Billyard on behalf of John Hancock (through JEH Re) in around July 1997. For placing these protections, SCB Insurance brokers received brokerage of 15% of the then applicable net premium income.

135. In May 1998 (more than eleven months after the WEB Variable Quota Share inception), Euro International agreed on Odyssey Re London's behalf to provide retrocessional protection to John Hancock (as underwritten for by Billyard) specifically in respect of its own reinsurance of the Centaur companies participation in the WEB Variable Quota Share Retrocession.

136. The exposure accepted on behalf of Odyssey Re London (backdated by over 11 months) was essentially the same as that accepted by WEB on behalf of All American and ceded to the WEB Variable Quota Share Retrocession. By then, however, the risk premium had been almost entirely eroded. The "risk-free" fees/commissions deducted by the Racketeers prior to transferring the risk to Odyssey Re London included:

- Underwriting fee for WEB;
- Ceding commission under the WEB Variable Quota Share Retrocession;
- Brokerage for SCB Insurance Brokers on placement of the WEB Variable Quota Share Retrocession;
- Underwriting fee for Cackett (through Centaur);
- Brokerage for SCB Insurance Brokers on placement of the retrocessional protection for the companies underwritten for by Centaur;
- Over-rider;
- Underwriting fee for Billyard through JEH Re;
- Brokerage for SCB Insurance Brokers on placement of the further retrocessional protection for John Hancock; and
- Underwriting fee for EIU.

The sequence of transactions served no legitimate business purpose whatsoever and could not

have occurred had there been risk-bearing entities acting at arms length.

The Realm Program

137. Also among the Christmas Eve placements were a total of twelve contracts accepted by Whitcombe, Henton and Euro International purportedly on behalf of Odyssey Re London that provide reinsurance of a U.S. workers compensation program insured by Realm National, a New York insurance company that is a wholly-owned subsidiary of SCB Holdings (the "Realm Program").

138. The underlying program, called the "Georgia Block Roll Program," involves Realm National Providing workers compensation insurance to policyholders in Georgia, Mississippi, Arizona, Louisiana, North Carolina and Tennessee. The program was developed during 1997 by one of Realm National's MGA's B&S Underwriters, Inc. ("B&S"). Upon information and belief, B&S, which solicited employers to purchase workers compensation insurance from Realm, is an entity controlled by SCB Holdings.

139. Realm National, in turn, arranged reinsurance of its exposures under the Georgia Block Roll Program. The Realm Program formed part of this reinsurance. As described below, a substantial proportion of that reinsurance was provided either directly or indirectly by Odyssey Re London through contracts written by Whitcombe, Henton and Euro International, purportedly on behalf of Odyssey Re London.

140. The reinsurance structure developed and implemented by the defendants was designed to pass the greatest level of losses into the contracts accepted on behalf of Odyssey Re London. Indeed, the defendants structured the reinsurance of the Georgia Block Roll Program so as to artificially enhance Realm National's profitability by arranging for the

Realm National to receive disproportionately large percentages of the risk premiums for its retained exposures, enabling the defendants to generate vast amounts of risk-free income through multiple fees, brokerage and commissions.

141. The abuses present in this program would readily have been apparent upon the exercise of even rudimentary underwriting analysis. The workers compensation insurance the underlies this program is not the "medium risk," "short-tail" personal accident reinsurance Odyssey Re London was told would be, and believed was being, accepted under the Binding Authority.

142. Realm National's reinsurance program was arranged so as to provide comprehensive protection of Coverage B⁷ exposures. The program was effective July 1, 1997. Real National retained 50% of its Coverage B exposures (the loss ratio for which is projected to be 15%) and arranged reinsurance of the balance of 50% with CIRCL (whose ultimate parent company is SCB Holdings).

143. The program in respect of Coverage A exposures (excluding reinsurance of statutory exposures excess of \$1,000,000) was arranged on behalf of Realm National through the intermediary of SCB North American.

144. Realm National purchased a 75% quota share reinsurance for this exposure (the "Coverage A Quota Share"), retaining the 25% balance. The Coverage A Quota Share was placed with John Hancock (through JEH Re), Sun Life and Phoenix Home Life (through Centaur), and Reliastar.

⁷ Typically, Coverage A provides the accident and health components of workers compensation insurance, insuring claims for lost wages and medical benefits. Coverage B essentially functions much like casualty insurance, insuring rare occurrences involving claims such as intentional tort and dual capacity losses against employers. Many states statutory schemes refer to this coverage as "Part A" and "Part B".

145. The contracts written by Whitcombe, Henton and Euro International protect Realm specifically, for its retained 25% exposure (the "Realm Direct Reinsurance"), and John Hancock (through JEH Re), for its 57% (part of 100% of 75%) participation in the Coverage A Quota Share (the "Realm JEH Re Reinsurance").

146. The Georgia Block Roll Program inceptioned on July 1, 1997 and was scheduled to end July 31, 1998. Of the original premium charged by B&S for this program, the expected to be \$122 million, 94% was allocated to Coverage A and 6% to Coverage B.

147. The Coverage A premium was further segmented between individual claims of up to \$1 million and those over \$1 million. Claims up to \$1 million were allocated 96% of the remaining Coverage A premium. This, in turn, was allocated 25% to Realm and 75% to the Coverage A Quota Share.

148. The realm Direct Reinsurance provided excess of loss and aggregate coverage in several layers covering Realm National's 25% retained risk to Coverage A exposures. The first excess of loss layer covered 25% of losses of \$190,000 excess of \$10,000. Twenty percent of the subject premium was allocated to this layer coverage. The second layer covered 25% of losses of \$800,000 excess of \$200,000. Seven percent of the subject premium was allocated to this layer of coverage.

149. SCB Reinsurance Brokers or SCB Insurance Brokers "in account with" SCB Reinsurance Brokers was the London reinsurance broker for this transaction and took a 15% brokerage commission. Because the placement passed through Euro International, a 12,5% fee was paid for its supposed services. Odyssey Re London thus was obligated for 50% of a 25% share of all claims over \$10,000 of the program, for which it received approximately 50% of 12.5% of the applicable premium income. As established, the first excess layer is

projected from available underwriting information to experience a 440% loss ratio, or losses of 4.4 times the allocated premium – remarkably beyond any reasonable industry standard or acceptable tolerance. The second excess layer is projected to experience a 160% loss ratio.

150. Liability for 25% of the first \$10,000 in losses was retained by Realm National and reinsured by Odyssey Re London in aggregate layers that were calculated based on a formula of 70% of a then undefined net premium income ("NPI"). Realm National retained the first layer of this aggregate protection for significant premiums that projected a loss ratio for Realm's retained position of 66.5%. The remaining five layers of aggregate protection, collectively for losses of \$5 million excess of \$1 million excess of 70% NPI, were placed Odyssey Re London and are projected to produce a 154% loss ratio.

151. The Realm JEH Re Reinsurance also provided both excess of loss and aggregate reinsurance, but for John Hancock's participation, through JEH Re, in the Coverage A Quota Share. The Realm JEH Re Reinsurance was placed with Whitcombe, Henton and Euro International into Odyssey Re London through SCB Insurance Brokers "in account with" SCB Reinsurance Brokers.

152. At each step of the transaction, an entity owned or controlled by the defendants took significant commissions or fees. The ceding commissions under the Coverage A Quota Share was 32% of the subject premium (and was, therefore, projected to be in excess of \$30,000,000). Furthermore, 5% brokerage was payable under the Coverage A Quota Share (for which JEH Re would have received an underwriting fee of 6% of the net premium income).

153. Further, SCB North American initially served as the intermediary for the Realm JEH Re Reinsurance. Subsequently, through an endorsement, on April 20, 1998, SCB

reinsurance Brokers was substituted as the intermediary.

154. The first specific excess of loss layer covered losses of \$40,000 excess of \$10,000. Fourteen percent of the subject premium income was allocated to this layer of coverage. The second layer covered 75% of losses of \$377,500 excess of \$50,000. Six percent of the subject premium income was allocated to this layer of coverage. The first excess layer is projected to experience a 378% loss ratio, or losses of 3.78 times the allocated premium. The second excess layer is projected to experience a 329% loss ratio. Both of these loss ratios are well beyond industry standards and demonstrate the fraud perpetrated by defendants on Odyssey Re London.

155. John Hancock's retained exposure for the first \$10,000 in losses was also reinsured by Odyssey Re London in aggregate layers covering losses in excess of 70% of NPI. For its remaining exposure (to losses up to 70% of NPI), John Hancock retained premiums designed merely to generate a 54% loss ratio. The program thus was designed to guarantee a profit to John Hancock.

156. The three layers of aggregate protection, which collectively reinsure John Hancock (in layers of \$1 million) for losses of \$3 million excess of 70% NPI, were placed with Odyssey Re London. These layers are projected to produce loss ratios to Odyssey Re London of 198%, 280% and 518% respectively

The Bridgefield Retrocession

157. Among the Christmas Eve Placements (which were represented to Odyssey Re London as having introduced a "*core of good quality direct Personal Accident business*") was the Bridgefield Retrocession. The Bridgefield Retrocession was a retrocessional contract

under which Odyssey Re London reinsured John Hancock's participation (through JEH Re) in a reinsurance of the Bridgefield Employers Insurance Company ("Bridgefield"). Bridgefield (formerly known as Employers Self Insurers Fund⁸) provides insurance of workers compensation risks, which are principally located in Florida.

158. The Bridgefield Retrocession (which was "underwritten" by Whitcombe and/or Henton and Euro International on December 24, 1997) is structured to produce a projected loss ratio of over 800% to Odyssey Re London. In simple terms, it amounts to nothing more than an agreement to sell Odyssey Re London's dollars for approximately 12 cents each. In this respect, and in the manner in which it was backdated (in this instance by nine months to April 1, 1997) the Bridgefield Retrocession is typical of the fraud visited by defendants on Odyssey Re London.

159. On March 10, 1997, Billyard (through JEH Re) wrote, on behalf of John Hancock, 100% of an excess of loss reinsurance protecting Bridgefield for risks attaching during the 12 month period commencing April 1, 1997 (the "JEH Re Bridgefield Contracts"). The JEH Re Bridgefield Contract provided protection of \$450,000 excess of \$50,000, any one loss (or occurrence), up to a maximum of 20 losses for 1.5% of the program's subject premium. The maximum amount recoverable under the JEH Re Bridgefield Contract thus was \$9,000,000.

160. The original subject premium on the workers compensation business written by Bridgefield was approximately \$127,000,000. The gross premium payable under the JEH Re Bridgefield Contract was \$1,905,000.

⁸ Employers Self Insurers Fund converted to a stock insurance company on May 28, 1997 and its name was changed to Bridgefield.

161. Industry statistics reveal that 63% of losses for business of this nature fall in the first \$50,000 of insurance coverage. Approximately 35% of losses fall in the next layer of \$450,000. Assuming a loss ratio on the original business of 90%, loss in the layer protected by the JEH Re Bridgefield Contract would exceed \$40,000,000. Actual loss statistics then available to Whitcombe and Henton for prior years, as at December 31, 1996, indicate that undeveloped losses to the layer covered by the JEH Re Bridgefield Contract were \$4,000,000 for 1996/1997, \$10,000,000 for 1995/1996, \$19,000,000 for 1994/1995, \$24,000,000 for 1993/1994, \$33,000,000 for 1992/1993 and \$53,000,000 for 1990/1991.

162. On the basis of both industry statistics and risk specific statistics, therefore, defendants knew that the JEH Re Bridgefield Contract was guaranteed to produce substantial losses.

163. On June 27, 1997, Billyard sent a fax to Dominic Hagger at "Stirling Cooke Brown (London)" in which he expressed concern that *"the reinsured is attempting to add substandard risks to their program at a concerning rate."*

164. During the course of 1997, Billyard grew concerned about the loss development on the JEH Re Bridgefield Contract. On December 16, 1997, Billyard sent a further facsimile to Dominic Hagger at SCB Insurance Brokers advising that *"we will not be renewing this risk going forward."*

165. Subsequently, on December 24, 1997, Shawn Christiansen of JEH Re sent a further fax to Dominic Hagger attaching a list of *"special acceptance criteria"* and explaining that *"this list was compiled largely as a result of the extremely poor loss record of this reinsured and our attempts as reinsurer to limit future losses."*

166. On the same day, the Bridgefield Retrocession was written by Henton at

Euro International, purportedly on behalf of Odyssey Re London. It provided reinsurance to John Hancock (through defendant JEH Re) of \$400,000 excess of \$50,000 any one loss (or occurrence) for its participation in the JEH Re Bridgefield Contract. The Bridgefield Retrocession provided that John Hancock retain the first \$3,500,000 of losses, which would otherwise have been recoverable. The total amount recoverable from Odyssey Re London was capped at \$5,500,000.

167. The gross premium charged for the Bridgefield retrocession was \$1,000,000. However, the net amount payable to Odyssey Re London was no more than \$675,000. The contract was placed by SCB Insurance Brokers "in account with" SCB Reinsurance Brokers. SCB Reinsurance Brokers was named as the intermediary. SCB insurance Brokers commission is undisclosed, but the slip shows that SCB Reinsurance Brokers, as the reinsurance broker for this transaction took a 20% brokerage commission (or \$200,000). SCB Reinsurance Brokers were already receiving 15% brokerage under the original JEH Re Bridgefield Contract (approximately \$285,750), for which JEH Re would, in turn, have received a 6% management fee (\$114,300).

168. Furthermore, for its supposed services in "underwriting" the Bridgefield retrocession, Euro International took a 12.5% fee (or \$125,000). The net premium payable to Odyssey Re London is approximately \$675,000 for a risk that, on the basis of industry statistics, is expected to produce losses of \$22,000,000. Consequently, it is virtually inconceivable that the limit of \$5,500,000 will not be exhausted.

169. Such a quantum of losses, combined with the circumstances in which the Bridgefield Retrocession came to be "underwritten," demonstrates defendants fraudulent conduct and their scheme to obtain significant commissions through their ability to place with

Odyssey Re London drastically underpriced reinsurance that was guarantee to produce substantial losses.

The CIGNA Re Program

170. Another example of the fraudulent nature of the defendants dealings involves Odyssey Re London's participation in reinsurance of workers compensation risks originally reinsured by CIGNA Re Europe (the "CIGNA Re Program"). This program was underwritten by Bird for CIGNA Re pursuant to a binding authority granted by CIGNA Re to Bird. Significantly, Bird's involvement in this program was obscured from Odyssey Re London in the bordereau submissions made throughout the relevant period.

171. Like many of the other programs, Odyssey Re London's reinsurance of the CIGNA Re Program was structured by the defendants to pass a disproportionate share of losses into the reinsurance layer accepted on Odyssey Re London's behalf for grossly inadequate premium while the premium was degraded by the removal of commissions, brokerage fees, and excessive risk premium paid to the defendants and their affiliated entities. The program was so severely underpriced that Odyssey Re London will experience a loss ratio of **1118%** in its most significant layer of reinsurance participation.

172. As originally structured, the CIGNA Re Program provided workers compensation reinsurance in a variety of states to primary insurers. Those insurers purchased reinsurance from CIGNA Re for a portfolio of risks originally estimated to generate \$50 million in annualized premium. Pursuant to a limited binding authority, Bird acted as an MGU for CIGNA Re.

173. Although the CIGNA Re Program incepted in October 1997, the reinsurance

was not presented to Odyssey Re London until December 1997. The program involves both aggregate and excess of loss reinsurance. The aggregate protection provided reinsurance for aggregate losses in two layers of \$240,000 excess of \$10,000 and \$750,000 excess of \$250,000.

174. The excess of loss reinsurance was comprised of four layers. The first excess of loss layer covered losses of \$190,000 excess of \$10,000. Odyssey Re London was subscribed to 50% of this layer. Only 6.6% of the subject premium income, or \$3.3 million, was allocated to this layer of coverage. The second layer covered losses of \$250,000 excess of \$250,000, and 2.5% of the subject premium income, or \$1.25 million, was allocated to this layer of coverage. Odyssey Re London was subscribed to 33.3% of this layer. The third layer covered losses of \$1 million excess of \$1 million, and 1.25% of the subject premium income, or \$750,000, was allocated to this layer of coverage. Odyssey Re London was subscribed to 33.3% of this layer. The final layer covered losses of \$3 million excess of \$2 million, and 2% of the subject premium income, or \$1 million, was allocated to this layer of coverage. Odyssey Re London was subscribed to 25% of this layer.

175. CIGNA Re and Bird took 40% of the original premium for their fees and commissions. Beyond that, SCB Reinsurance Brokers or SCB Insurance Brokers "in account with" SCB Reinsurance Brokers was the reinsurance broker for this transaction and took a 15% brokerage fee and Euro International took a 12.5% fee.

176. As established, the first excess layer is projected from available underwriting information to pay 50.9% of all losses in the program. Given the original premium base, the first excess layer thus is likely to experience a **1118%** loss ratio, or losses of over 11 times the allocated premium – beyond any reasonable industry standard or acceptable tolerance.

The second excess layer is projected to experience a 189% loss ratio, significant in its own right. In contracts, CIGNA Re's retention of loss payments is expected to experience a 48% loss ratio.

177. Thus, through Odyssey Re London's participation in the CIGNA Re Program, the defendants were able to secretly pass a disproportionate share of losses into the reinsurance layer accepted on Odyssey Re London's behalf for grossly inadequate premium which was further degraded by the removal of commissions and excessive risk premium in earlier reinsurance.

The John Hancock Quota Share Programs

178. In two other reinsurance programs presented by the Stirling Cooke entities and accepted by Whitcombe and Euro International, Odyssey Re London reinsured John Hancock, through JEH Re and Billyard, on a Quota Share and Non-Proportional Quota Share basis. It appears that these Quota Share reinsurance agreements cover catastrophe excess of loss, occupational accident, aggregate covers and "proportional and quota share reinsurance treaties."

179. Given the manner in which these programs are structured, and the fact that reinsurance underlying the John Hancock cessions is primarily composed of the same programs that otherwise are reinsured in part directly by Odyssey Re London (certain of which are described above) it is now apparent that the John Hancock Quota Share Programs were created to serve as a vehicle for the defendants to create a reinsurance spiral that would allow them to earn enormous, risk-free income, while disguising for many years the truly disastrous nature of the reinsurance risks assumed.

The Fraudulent Reinsurance Procured on Behalf of Odyssey Re

180. The defendants compounded the frauds described above by representing they would obtain reinsurance for Odyssey Re London. However, instead of obtaining reinsurance to transfer a portion of Odyssey Re London's risk to other companies, Euro International and the Stirling Cooke entities fraudulently obtained a substantial amount of illusory reinsurance that effected no real risk transfer. The illusory reinsurance arranged for Odyssey Re London is almost exclusively provided by U.S. companies whose underwriting is controlled by the Stirling Cooke entities and which, through a series of complicated transactions, circles back to Odyssey Re London.

181. One example of this illusory reinsurance is where the Stirling Cooke entities and Euro International arranged reinsurance with American Reliable, ostensibly to protect Odyssey Re London. However, because American Reliable is reinsured by Phoenix Home Life, and Phoenix Home Life is reinsured by Odyssey Re London, the protection purportedly provided by American Reliable to Odyssey Re London is illusory. Instead of a true transfer of risk, the reinsurance of Odyssey Re London by American Reliable results in a recycling of the risk back to Odyssey Re London.

182. Moreover, in the progress of recycling the losses to Odyssey Re London, the Stirling Cooke entities and other defendants took further commissions and management fees, thus further eroding the already deficient premium base for the reinsurance.

183. To compound the illusory nature of certain of the reinsurance, defendants arranged for outwards reinsurance on basis which was not concurrent with the inwards reinsurance. Some of the inwards business accepted on behalf of Odyssey Re London was on a "Risk Attaching During" basis, that is, the reinsurance covered losses on business that

attached during a specified time period no matter when the losses occur. Therefore, to assure concurrence of coverage, the reinsurance of Odyssey Re London, should also have been on a "Risk Attaching During" basis. Instead, defendants placed virtually all outwards reinsurance for Odyssey Re London on a "Losses Occurring During" basis, that is, the reinsurance only covered losses occurring during a specific time frame. The effect is that Odyssey Re London has no reinsurance protection for losses occurring on or after January 1, 1999 for all risks that attached before that date.

184. Ultimately, through the defendants fraudulent misrepresentations and actions, Odyssey Re London is exposed to a sizeable portion of the potentially enormous losses resulting from the egregiously underpriced U.S. worker's compensation insurance and reinsurance business.

COUNT 1

Violations of the Racketeer Influenced & Corrupt Organizations Act ("RICO"), 18 U.S.C. § 1962

185. Odyssey Re London repeats and realleges each and every allegation contained in paragraphs 1 through 184 of this Complaint as if fully set forth here.

186. The unlawful Enterprise is an association in fact among Cooke, Brown, Billyard, Murray, Cackett, Bird, Whitcombe, Henton and the various entities they own or control, including the Stirling Cooke entities, Euro International, WEB, Centaur, and JEH Re. While appearing initially to be separate entities, with separate corporate existences, during the time of defendants Enterprise, many of these "companies" in fact operated out of the same offices, and always in concert with each other, distinguished merely by separate telephone lines and internal reference numbers.

187. The Enterprise is engaged in interstate and foreign commerce and was, and is, carrying o activities that affect interstate and foreign commerce as that term is defined in 18 U.S.C. § 1961.

188. The defendants agreed to and did conduct and participate in the conduct of the Enterprise's affairs through a pattern of racketeering activity and for the unlawful purpose of intentionally defrauding Odyssey Re London. Each defendants exercised a managerial role in the conduct of the affairs of the Enterprise, and each defendant received income from the pattern of racketeering set forth herein.

189. At all relevant times, the dual purpose of the Enterprise is and was: (1) to control the placement of run-off and original workers compensation insurance and the related reinsurance and retrocession of that original insurance, while at each stage of these multi-layered transactions, eroding the original premiums through the collection of fees, commissions and the like, and retaining none of the original or reinsurance risk; and (2) to expand said activities, avoiding detection in the United States, the State of New York, Bermuda and the United Kingdom.

190. The Enterprise is and was an ongoing organization for at least two years from which defendants derived amounts believed to be well in excess of \$15 million from the illegal and fraudulent placements of reinsurance and retrocession policies with Odyssey Re London, all to the ultimate detriment of Odyssey Re London and United States workers compensation insurance policyholders.

191. Defendants established, controlled and managed the Enterprise through various constituent offices in the United States, Bermuda and United Kingdom, thus enabling the individual defendants to participate in the illegal activity of the Enterprise, and to conceal

its activities and avoid detection.

192. Defendants conspired to derive, and did derive, substantial proceeds through the establishment, control and active participation in the management and control of the Enterprise, in that, during 1997 and 1998 defendants collected millions of dollars in fees and commissions through the Enterprise.

193. Between 1997 and 1998, on a continuous and ongoing basis, defendants, acting with specific intent to defraud Odyssey Re London, devised a scheme and artifice to deprive Odyssey Re London of its business and property by fraudulently inducing Odyssey Re London to participate in the reinsurance and retrocession program outlined above, in order to enable defendants to generate unlawful and excessive profits, through the deception of Odyssey Re London and to the detriment of the underlying policyholders whose claims may not be covered, as a result of defendants stripping the underlying premium and passing a disproportionate share of the risk of loss to Odyssey Re London.

194. Pursuant to and furtherance of they fraudulent scheme, defendants committed multiple related acts of mail fraud and wire fraud in violation of 18 U.S.C. § 1341 and 1343, committed multiple related acts of interstate and foreign transportation of monies taken by fraud in violation of 18 U.S.C. § 2314, and committed multiple related acts of receipt of unlawful taken money in violation of 18 U.S.C. § 2315. Specific instances of defendants uses of the US mail and wires in interstate and foreign commerce include:

- (a) Facsimile, dated April 24, 1998, to Peter Cleary at SCB Insurance Brokers, from Anjali Madkekekar, Phoenix Home Life, 100 Bright Meadow Blvd. Enfield, CT, attaching signed statement of Recoveries at 1st Quarter 1998 for treaty year 1997, including a chart listing reinsurance recoveries and a breakdown of the business by premium as accepted by Phoenix of the retrocessional content of Phoenix's non-proportional PA Book.
- (b) Facsimile, dated may 8, 1998, to Jeff butler at SCB Reinsurance Brokers, from

Glenn Swanick, Phoenix Home Life, Enfield, CT, stating net premiums received – 1997 premium adjustment for the outwards program arranged by "Stirling Cooke."

- (c) Letter, dated October 28, 1998, to Odyssey Re London, from SCB Reinsurance Brokers, constituting a Reinsurance Claims collection notification regarding reassured Phoenix Home, and providing claim details for Gianni Versace loss in Miami, FL.
- (d) Facsimile, dated May 8, 1998, to Jeff Butler, SBC Insurance Brokers, from Glenn Swanick, Phoenix Home Life, Enfield, CT, providing net premiums received – 1997 premium adjustment for the outwards program "SCB" arranged.
- (e) Facsimile, dated June 27, 1997, to IMC Tuckers, Kansas City, Mo., from SCB reinsurance Brokers, enclosing executed slip listing Insurance Management Corporation ("IMC") as cover holder, providing details of underwriting powers, binding authority, territory, limit, and other relevant information for account underwritten by "Stirling Cooke" and subscribed by "Clarendon."
- (f) Facsimile Memorandum, dated may 20, 1998, to Jeff Butler, SCB Insurance Brokers, from Paul Minter, CIGNA Re Europe regarding reinsurance program for Cigna Line Slip Account and requesting deletion or amendment of retrocessional LMX exclusion in Connection with facultative reinsurance of Lloyd's syndicate or London market company's account.
- (g) Facsimile, dated May 28, 1998, to Chris Kelly, "Stirling Cooke Brown (London)," from Adam Hedley, MBR (Australia), providing the contract/slip from New Cap Re K&R/PA retrocession of Odyssey Re London.
- (h) Facsimile, dated August 25, 1998, to Reg Billyard, JEH Re, from Jeff Butler, SCB Reinsurance Brokers, requesting agreement to revise Centaur underwritten risks because of the request for better security. The facsimile then states that the additional exposure will then be passed to Odyssey Re London, leaving JEH Re in no different a position than they were at the beginning of the transaction.
- (i) Facsimile, dated November 18, 1996, to nick brown, from Reg Billyard, JEH Re explaining that reinsurance for the remaining spiral LMX business would be necessary for 1997 because the non-LMX business would be placed into a different reinsurance program.
- (j) Facsimile, dated June 25, 1998, to Reg Billyard, from Nick Brown, explaining that Odyssey Re London's participation in the 1998 John Hancock quota share is reinsured by an entity other than John Hancock and that this does not conflict with

other reinsurance provided to Odyssey Re London.

- (k) Facsimile, dated August 16, 1996, to Mark Cooke, "SCB," from Jeff Cassal, Assistant Vice President Underwriting, Stirling Cooke Texas, Inc., 15660 Dallas Parkway, LB 141, Dallas, Texas, providing endorsements for: 1. Texas USL&H; 2. Texas Outer Continent Shelf; 3. Texas Maritime; 4. NCCI all states USL&H; 5. NCCI all states Outer Continental Shelf; 6. NCCI all states Maritime. This correspondence also includes the OCS coverage, as a common coverage for offshore oil and gas operations in the Texas and Louisiana market.
- (l) Facsimile, dated May 29, 1998, to Raydon Underwriting, Paul Murray, from Jeff Butler, SCB Reinsurance Brokers, regarding WEB Management/Unicare and stating that SCB Reinsurance Brokers can get "an order on the spec an agg for around 50% of net premium income," and attaching the loss record for the layer written by WEB and a "rework" on the original layer.
- (m) Facsimile Memorandum, dated January 2, 1998, to Billyard, from Jeff Butler, SCB Reinsurance Brokers, memorandum regarding Chiyoda UK stating that SCB Reinsurance Brokers has had problems with "capacity underwriters on the \$9,000,000 xs \$1,000,000" and provided revised quote sheets.
- (n) Facsimile, dated September 10, 1998, to Brian Batchelor, Horace Holman, from Reg Billyard, writing about a "surprise" visit by Odyssey Re London personnel, and stating that Billyard is not aware of Odyssey Re London's reinsurance protections and that it is "none of my business." Having reviewed his files, Billyard states that only a "residual portion" of Odyssey Re London's risk is in the John Hancock quota share program.
- (o) Facsimile, dated January 30, 1998, to Jeff Butler, SCB Reinsurance Brokers, from H. Randell Howard, James E. Hackett Reinsurance Corp., Milford, CT, attaching illustrations for the new (1998) year of account and indicating that the prior medical and LMX business are being discontinued for 1998.
- (p) Facsimile, dated February 11, 1999, to Joe Welch, John Hancock Boston, MA, from Sue Hilmour, JEH Re Bermuda, transmitting the executed slip for the Bridgefield participation by John Hancock.
- (q) Facsimile, dated February 9, 1998, to Jim Hackett, James E. Hackett Reinsurance Corp., Milford, CT, from Reg Billyard, requesting that the John Hancock retrocessional program documentation for the Florida Insurance Department be prepared and filed.

- (r) Facsimile, dated December 16, 1997, to Dominic Hagger, SCB Reinsurance Brokers, from Reg Billyard, JEH Re, stating that losses on the Bridgefield program had become unacceptable and that JEH Re would not accept a cancellation and "rewrite" of the program. The Bridgefield program was then placed with Odyssey Re London on December 24, 1997.
- (s) Facsimile, dated January 22, 1999, to Reg Billyard, from JEH Re, Milford CT, confirming payment to Odyssey Re London on the 1998 LMX retrocessional program and requesting certain additional accounting in order to explain the relevant history of the account.
- (t) Facsimile, dated August 25, 1998, to JEH Re CT, from Reg Billyard, requesting John Hancock approval of the retrocessional contract attached to the facsimile and noting in handwriting that the program is reinsured 100% with Odyssey Re London, who is identified as a reinsurer that is paying its claims.
- (u) Facsimile, undated, to SCB Insurance Brokers, from Sharon Woods, JEH Re, providing wire instructions indicating that payments of premiums are to be referred to JEH Re's account at The Bank of Butterfield & Son Ltd. and transmitted via account at Citibank, NA, 111 Wall Street, New York, NY.
- (v) Facsimile, dated February 10, 1998, to Randy Howard, JEH Re Connecticut, from Sue Gilmour, JEH Re Bermuda transmitting 48 pages of the Odyssey Re London contracts running in favor of John Hancock.
- (w) Facsimile, dated April 14, 1998, to Unicare, from WEB Management, transmitting draft workers compensation excess of loss reinsurance contract, effective January 1, 1998, issued to Unicare Insurance Company, Woodland Hills, California by the subscribing reinsurer(s).
- (x) Facsimile, dated May 6, 1998, to Jeff Butler, SCB Insurance Brokers, from Chuck Bastan, WEB Management, 45 Wintonbury Avenue, Bloomfield, CT, regarding Unicare Insurance Company providing a breakdown between paid and outstanding for historical experience for \$475,000 excess of \$25,000.
- (y) Facsimile, dated September 8, 1998, to Jeff Butler, SCB Insurance Brokers, from Andy Hardley, Centaur Underwriting Management Ltd., regarding Centaur Occ/Acc Specifics and confirming "that a cession will not be made to the [Centaur Occ/Acc] in respect of our participation in the Odyssey Re layer of \$900,000 xs \$100,000."
- (z) Letter sent via facsimile, dated August 12, 1997, to Jeff Butler, SCB Insurance Brokers, from John Cackett, providing 1997/1998 renewal information: 50% Sun Life Assurance Company of Canada; 50% American Phoenix Life & Reassurance Company & /or Phoenix Home Life Mutual Insurance Company – as underwritten for by Centaur Underwriting Management Limited.

- (aa) Facsimile, dated March 10, 1998, to Jeff Butler, SCB Insurance Brokers, from Alan Bird regarding Clarendon Legion USL&H "quota share common account reinsurance," making references to participation of Odyssey Re London.
- (bb) E-mail, dated February 10, 1998, to Alan Bird, from Lincoln National, Ill., transmitting premium schedule for the Lincoln National reinsurance program that ultimately was placed with Odyssey Re London.
- (cc) Letter dated September 9, 1998, to John Coppinger, Odyssey Re (NY), from Christopher Henton, EIU, responding to questions raised concerning the JEH and Cigna Re involvement at a July 1998 meeting. The letter explains that there is nothing wrong with the programs and that the underwriting information requested reveals no unusual results.
- (dd) Facsimile Memorandum, dated June 18, 1997, to Chris Henton, from Jeff Butler, SCB Reinsurance Brokers, confirming to Chris Henton that the minimal retrocessional content of the Phoenix Home Life Account is in the region of 5%."
- (ee) Memorandum, dated June 17, 1997, to Chris Henton, from Jeff Butler, noting that SCB Reinsurance Brokers still has not received confirmation from Phoenix Home Life as to their retro content in their reinsurance where EIU participates. Butler goes on to confirm that "it is [SCB's] ... understanding that there is minimal retro-exposure this year."
- (ff) Facsimile, dated November 16, 1998, to Phillip Kerridge, from Chris Henton, regarding Clarendon Temp Staff, requesting clarification or further information: "1... details as well as policy limits for excess protections; 2... supporting documentation for claims deducted of \$84,667.26 and reserves of \$281,621.87 on July bordereau; 3... summary sheet detailing excess reinsurance and tax deductions for August; 4. [a discrepancy between the claims breakdown] ... requesting clarification of actual position; 5. [requesting future claims be broken down to reflect the effect of the reinsurance] ... 6. [requesting explanation as to how Kerridge arrives] at ... figures shown on the closing advice from the written and collected premium bordereau supplied by SCB." Also attached are Stirling Cooke Insurance Services answers to posed questions dated August 1998.
- (gg) Facsimile, dated April 30, 1997, to EIU, from "Stirling Cooke Re," transmitting business plan, including background information and mission statement for WEB Management LLC, and identifying potential underwriting activities.
- (hh) Facsimile, dated December 3, 1998, to Nick Bentley, Odyssey Re London, from John Whitcombe, advising that any effort by Odyssey Re London to investigate letter of credit demands is a "youthful chess game" and that any problems with the accounts merely are "perceived."
- (ii) Letter sent by facsimile, dated November 2, 1998, to Michael Mather, Odyssey Re

London from John Whitcombe, containing a detailed 5 page recitation and essentially representing that the 1997 accounts were as originally presented in the Business Plan, that because of a proper reinsurance program Odyssey Re London should not be concerned about exposure, that there are no improper relationships with Stirling Cooke companies, and that the fees charged for the various transactions do not require "adjustment."

- (jj) E-mail transmissions, dated December 22, 1998 and dated December 28, 1998 to Odyssey Re London, from Marina Contiero, SCB North American, attaching documents identifying the premium and loss information for the Realm National Program from inception.
- (kk) Mailing, dated December 22, 1997, to Realm, from SCB North American, enclosing executed slips for the underlying insurance and reinsurance placement with Odyssey Re London of the business underwritten by B&S Underwriters.
- (ll) Mailing, dated January 20, 1998, to Realm, from SCB North American, enclosing executed slips for the excess of loss and aggregate reinsurance accepted by John Hancock and Odyssey Re London.

195. In addition to each of the predicate acts described above, defendants necessarily used the United States mails an interstate and international wires to advance the fraudulent scheme because of the way in which reinsurance business is conducted. The additional documents evidencing specific transfers of information and money are within the defendants exclusive possession, but are known to exist by virtue of the nature of the business transactions described below.

- (a) Business that (1) Clarendon National reinsured, as underwritten by Raydon, described above, (2) Trustmark reinsured, as underwritten by WEB, described above, (3) American Phoenix reinsured, as underwritten by Centaur, described above, and (4) John Hancock reinsured, as underwritten by JEH Re, described above, is business assumed from United States domiciled insurance companies, insuring United States workers.
- (b) On information and belief, statistics regarding the volume of business expected to the

written and reinsured, the volume of such business actually written and reinsured, the premiums expected and collected, and the losses incurred and paid would have been transmitted from the United States insurance companies, using the United States mails and interstate and international wires, to Raydon, WEB, Centaur and JEH Re acting on behalf of the insurance companies they represented. Without such information, those defendants could not have committed the companies they represented to the reinsurer the business described above. In addition, the premiums paid by the United States insurance companies for the reinsurance purchased would have been paid to the defendant underwriting managers on behalf of the reinsurers they represented. Those premium transfers must have flowed through the United States banking system.

- (c) On information and belief, after Centaur committed American Phoenix to reinsure the United States workers compensation business described above, it used the information and funds received through the United States mails and international wires to obtain reinsurance from Odyssey Re London.
- (d) On information and belief, after Raydon, WEB, and JEH Re committed the companies they represented to reinsure the United States workers compensation business described above, they each used the United States mails and interstate and international wires to obtain reinsurance from Odyssey Re London. Raydon, WEB, and JEH Re each used SCB North American (of New York) as the intermediary on certain of the reinsurance programs described above. A reinsurance intermediary acts as the broker for the cedent and is the entity through which information and money flows. Indeed the contracts between Clarendon National, Trustmark and Hancock, on

the one hand, and Odyssey Re London, on the other hand, which identify SCB North American as the intermediary, provide:

All communications (including but not limited to notices, statements, premiums, return premiums, commission, taxes, losses, loss adjustment expenses, salvages and loss settlement) relating thereto shall be transmitted to the Reinsured through Stirling Cooke Brown North American Reinsurance Intermediaries Inc.

- (e) On information and belief, Raydon, WEB, and JEH Re used the United States mails and interstate and international wires on behalf of Clarendon National, Trustmark, and Hallmark to send and received information and transmit funds to and from SCB North American. SCB North American, in turn, used the United States mails and interstate and international wires to send and received information and funds to and from SCB Insurance Brokers and SCB Reinsurance Brokers, both of which are located in London. SCB Insurance Brokers and SCB Reinsurance Brokers served as the entities that transmitted informations and funds to Euro International, Whitcombe, and Henton purportedly acting on behalf of Odyssey Re London.
- (f) On information and belief, commissions fraudulently taken by SCB North American were deposited in United States banks and were transferred in part, to SCB North American Holdings, which in turn, used United States banks to transfer such funds to SCB Holdings.
- (g) The precise dates and details of the aforesaid uses of the United States mails and interstate and international wires and United states banks are presently unknown to Odyssey Re London. Such information is uniquely in the possession of defendants. Each such use of the United States mails, interstate and international wires, and

transfer of funds through the United States banks was in furtherance of the scheme to defraud Odyssey Re London.

196. With continuity and relatedness, from 1997 to 1998, defendants, in the furtherance and for the purpose of executing this scheme and artifice to defraud Odyssey Re London of its business and property, used or caused to be used the mails and wires of the United States and those in foreign commerce. Such use of the mails and wires for purposes of effectuating defendants scheme included, by were not limited to, the following: defendants mailed slips, policy contracts, reports and other documentation concerning the insurance and reinsurance ultimately placed into Odyssey Re London, and used the United States and foreign telephone wires to make numerous telephone calls, and transmit faxes continuously, regularly, an on an ongoing basis during 1997 and 1998, falsely advising Odyssey Re London as to the nature of the insurance, reinsurance and retrocession programs. Specifically, defendants, either alone or through their agents, transmitted or caused to be transmitted by means of telephone and in writing through the mails and by facsimile, in interstate or foreign commerce, false and fraudulent statements to Odyssey Re London. The specific details concerning these documents and transmissions are contained in the factual allegations above. The categories of the fraudulent statements include, but are not limited to, the following:

- (a) Initially in late 1996 and later in July 1997, Whitcombe, Henton and Euro International, acting in concert with the members of the Enterprise, prepared for submission to Odyssey Re London business plans that falsely represented the nature and business that would be underwritten through the Binding Authority;
- (b) In November 1997, January 1998, March 1998, and May 1998, as well as at unknown other times, Whitcombe, Henton and Euro International, acting in concert

with the members of the Enterprise, prepared and transmitted to Odyssey Re London underwriting reports that misrepresented the true nature of reinsurance being underwritten through the Binding Authority;

- (c) On a monthly basis on the last business day of the month, beginning in February 1997 and continuing until August 1998, Whitcombe, Henton and Euro International, acting in concert with the members of the Enterprise, prepared and transmitted to Odyssey Re London bordereaux reports that intentionally concealed the true nature of the reinsurance being underwritten through the Binding Authority;
- (d) In July, August and December 1997, Whitcombe, henton and Euro International, acting in concert with the members of the Enterprise, prepared and transmitted to Odyssey Re London proposals, quotations and contracts fraudulently concealed that they were part of the scheme to establish a reinsurance spiral that ultimately would pass a disproportionate share of the reinsurance risks back to and through Odyssey Re London.

197. As specified in part above, defendants and their agents also used and transmitted through interstate and foreign mails and wires numerous documents that comprised the paper trail for the various programs of reinsurance that were underwritten on behalf of Odyssey Re London and that obligated Odyssey Re London to unknowingly assume the risk of loss on the various programs of reinsurance described above. These documents include, among other things, reinsurance slips, confirmations, contracts, reinsurance placing information, premium closing statements and reinsurance claims statements.

198. Each separate use of the U.S. Mails and interstate wires in violation of 18 U.S.C. § 1341 and U.S.C. § 1343 set forth above constitutes an act of racketeering as that

term is defined in 18 U.S.C. § 1961(1); and together these acts constitute a pattern of racketeering activity pursuant to 18 U.S.C. § 1965(5).

199. As a direct and proximate result of the defendants racketeering activities and violations of 18 U.S.C. § 1962(c) described above, Odyssey Re London has been injured in its business and property.

200. On information and belief, during 1997 and 1998, in a variety of jurisdictions in the United States, including (at a minimum) New York, Connecticut, New Jersey, Louisiana, Georgia, Massachusetts, Pennsylvania, Illinois and Texas, as well as in Bermuda and the United Kingdom, defendants being employed by and/or associated with the association-in-fact Enterprise, unlawfully, willfully and knowingly participated, directly or indirectly, in the conduct of the affairs of the association-in-fact Enterprise which engaged in, and the activities of which affected, interstate and foreign commerce, through a pattern of racketeering activity (as that term is defined in 18 U.S.C. § 1965), consisting of multiple acts of interstate and foreign transportation of monies taken by fraud in violation of 18 U.S.C. § 2314, and multiple acts of receipt of unlawfully taken money in violation of 18 U.S.C. § 2315.

201. Each separate violation of 18 U.S.C. § 2314 involving interstate and foreign transportation of moneys taken by fraud, and each violation of 18 U.S.C. § 2315 involving the receipt of unlawfully taken money constitutes an act of racketeering as defined in 18 U.S.C. § 1961(1); and together this acts noted above constitute a pattern of racketeering activity pursuant to 18 U.S.C. § 1965(5).

202. The pattern of racketeering activity includes schemes to sell various policies of insurance and agreements of reinsurance in various states of the United States, Bermuda

and the United Kingdom, while fraudulently stripping the premiums and at the same time surreptitiously transferring a disproportionate part of loss to Odyssey Re London. The pattern of racketeering activity also includes, as predicate acts of racketeering, each of the acts of mail fraud, wire fraud, interstate and foreign transportation of money taken by fraud and use of wires and mails to aid the racketeering enterprise.

203. During the period between 1997 and 1998, defendants, pursuant to said fraudulent scheme, transported millions of dollars between the United States, Bermuda and the United Kingdom, through their affiliated intermediaries located in New York, Bermuda and London by: (1) payment of fees to Euro International; (2) payment of fees to the Stirling Cooke entities; (3) payment of fees to JEH Re; and (4) otherwise deducting premium payments through affiliated and/or related entities. The original premiums paid by insurers in the United States were funneled into the through defendants intermediary companies used to effectuated the reinsurance transactions, such as SCB North American in New York.

204. The foregoing conduct by the individual defendants and the association-in-fact Enterprise violates 18 U.S.C. § 1962(c).

205. As a directly and proximate result of defendants racketeering activities and violations of 18 U.S.C. § 1962(c and d), Odyssey Re London sustained damages to its business and property in excess of \$35 million (the exact amount to be proven at trial), representing the losses Odyssey Re London will be called upon to pay because of defendants fraud. Such damages must be trebled pursuant to 18 U.S.C. § 1961.

COUNT II

Violations of 18 U.S.C. § 1962(d)

206. Odyssey Re London repeats and realleges each an every obligation contained

in paragraphs 1 through 205 of this Complaint as if set forth here.

207. In violation of 18 U.S.C. § 1962(d), the defendants conspired to violated 18 U.S.C. § 1962(c), as alleged in Count I.

208. Defendants each agreed, conspired and acted together to defraud Odyssey Re London of its assets through a pattern of racketeering activity. Defendants each agreed to conduct or participate in the Enterprise's affairs through commissions of a pattern of racketeering activity including violation of 18 U.S.C. § 1341, 18 U.S.C. § 1343, 18 U.S.C. § 2314, add 18 U.S.C. § 2315, as alleged in dateail in Count I.

209. Defendants knew that their predicate acts were part of a pattern of racketeering activity and agreed to the commission of those acts to further their scheme to defraud Odyssey Re London. That conduct constitutes a conspiracy to violate 18 U.S.C. § 1962(c), in violation of 18 U.S.C. § 1962(a).

210. As a direct and proximate result of defendants conspiracy, the overt acts taken in furtherance of that conspiracy, and violations of 18 U.S.C. § 1962(d), Odyssey Re London has been injured in its business and property in excess of \$35 million (the exact amount to be proven at trial), representing the losses Odyssey Re London will be called upon to pay because of defendants fraud. Such damages must be trebled pursuant to 18 U.S.C. § 1961.

COUNT III

Common Law Fraud

211. Odyssey Re London repeats and realleges each and every allegation contained in paragraphs 1 through 210 of this Complaint as if fully set forth here.

212. Defendants falsely represented or caused to be falsely represented the following facts, as alleged in detail above:

- (a) the class and nature of business that would be and that was accepted on behalf of Odyssey Re London;
- (b) The type of account that would be accepted on behalf of Odyssey Re London;
- (c) The underwriting that would be and that was performed by Whitcombe, Henton and Euro International;
- (d) The potential profitability of the reinsurance risks accepted;
- (e) That Whitcombe and Euro International would and did act within their Binding Authority;
- (f) The defendants would and did obtain outwards reinsurance that would benefit Odyssey Re London; and
- (g) The extent of Odyssey Re London's participation in the underlying risks to which Whitcombe and Euro International bound Odyssey Re London.

213. As alleged in detail above, defendants fraudulently failed to disclose to Odyssey Re London or, among other information, fraudulently caused the nondisclosure to Odyssey Re London of the following material information that was known to them:

- (a) the loss statistics and background information for each program to which Odyssey Re London was bound by Whitcombe, Henton and Euro International;
- (b) the fact that the companies on the inwards and outwards reinsurance were controlled by defendants; and
- (c) the fact that the enterprise had severely degraded the premium by continually ceding

and retroceding the risks and extracting brokerage commissions and management fees at each cession and retrocession.

214. The representations and substantive omissions by defendants, as alleged herein, including the misrepresentations concerning the reinsurance business ceded to and through Odyssey Re London, were material and untrue.

215. Defendants made or caused to be made the material misrepresentations and omissions identified above with knowledge or belief of their falsity or with reckless disregard for their truth.

216. Defendants made or caused to be made the material misrepresentations and omissions with the intent to induce Odyssey Re London to rely upon them by, among other things: (a) extending the Binding Authority to Holman so as to enable Whitcombe and Euro International to accept reinsurance business on its behalf; (b) maintaining the relationship between Odyssey Re London, Holman, Whitcombe and Euro International; (c) increasing the amount of reinsurance business Whitcombe and Euro International could accept on behalf of Odyssey Re London; and (d) extending authority to Holman and hence to Whirtcombe and Euro International to place reinsurance business on Odyssey Re London's behalf.

217. In justifiable reliance on the material misrepresentations and omissions made or caused to be made by defendants, Odyssey Re London was included to: (a) extent Binding Authority to Whitcombe and Euro International to accept inwards and place outwards reinsurance on Odyssey Re London's behalf; (b) maintain the relationship between Odyssey Re London and Holman, whitcombe and Euro International; and (c) increase the amount of reinsurance business Whitcombe and Euro International could accept on behalf of Odyssey Re London.

218. Had Odyssey Re London known of the material misrepresentations and omissions made or caused to be made by defendants, Odyssey Re London never would have extended Binding Authority to Whitcombe and Euro International so that they could accept or place reinsurance on behalf of Odyssey Re London or, indeed permitted Whitcombe and Euro International to accept or place any reinsurance on its behalf.

219. Because of defendants abuse of their positions of trust, Odyssey Re London, even in the exercise of reasonable due diligence, was ignorant of the true facts concerning the business of defendants, and believed that defendants were conducting themselves honestly and properly. Odyssey Re London accordingly relied upon the defendants conduct, and acted or refrained from acting in such reliance as described above, all to its injury.

220. As a direct and proximate result of defendants acts, Odyssey Re London has been damaged in an amount in excess of \$35 million, the exact amount to be established by evidence at trial.

221. The foregoing acts and omissions by defendants constitute oppressive, malicious and deceptive conduct justifying an award to Odyssey Re London of punitive and exemplary damages.

222. Defendants concealed the material facts, such as the true identity and nature of the reinsurance business channeled to and through Odyssey Re London, intentionally creating and concealing the existence of a spiral insurance/reinsurance scheme to Odyssey Re London's detriment and to the detriment of all insureds.

223. Defendants concealment obstructed and continues to obstruct Odyssey Re London from discovering the extent that an individual inward and/or outward risk is spiraled through the same insurance/reinsurance entities again and again, creating the illusion of

reinsurance protection.

224. Odyssey Re London is engaged in a continuous effort, exercising due diligence, in trying to uncover the fraud.

225. Odyssey Re London has been damaged by defendants fraud, and because of the concealed nature of the fraud, Odyssey Re London cannot presently determine the totally of the damage sustained by Odyssey Re London, or the totally of the potential damage that Odyssey Re London may incur.

JURY DEMAND

226. Odyssey Re London demands a trial by jury.


WHEREFORE, Odyssey Re London prays for the following relief:

1. judgment against the defendants, jointly and severally, for all damages caused by their wrongful conduct, trebled in accordance with 18 U.S.C. § 1962;
2. a judgment directing rescission of the reinsurance and other contracts that have been placed by, through and with Odyssey Re London;
3. a judgment against the defendants for punitive and exemplary damages;
4. an award of costs and attorney's fees incurred by Odyssey Re London in the prosecution of this action; and

5. such other and further relief as this Court deems just and proper.

Dated: New York, New York
March 29, 1999

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

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