

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

FRIENDS OF ARIEL CENTER FOR POLICY)
RESEARCH, On Behalf of Itself and All)
Others Similarly Situated,)

Plaintiff,)

vs.)

ACE LIMITED, EVAN G. GREENBERG,)
BRIAN DUPERRAULT and PHILIP V.)
BANCROFT,)

Defendants.)

Civ. Action No.

CLASS ACTION

COMPLAINT FOR VIOLATION OF THE
FEDERAL SECURITIES LAWS

DEMAND FOR JURY TRIAL

INTRODUCTION

1. This is a securities fraud class action on behalf of persons who purchased the publicly traded securities of ACE Limited (“ACE” or the “Company”) between October 28, 2003 and October 13, 2004 (the “Class Period”), against ACE and its top officers, for violations of the federal securities laws arising out of defendants’ dissemination of false and misleading statements concerning the Company’s results and operations.

2. ACE is a holding company that, through its subsidiaries, provides a range of insurance and reinsurance products to insureds worldwide through operations in the United States and almost 50 other countries.

3. On October 14, 2004, *CBS MarketWatch* issued an article entitled “Spitzer attacks insurance industry.” The article stated in part:

In his latest move in a high profile campaign against corporate wrongdoing, Eliot Spitzer charged several of the nation's largest insurance companies and the largest broker with bid rigging and pay-offs that the New York Attorney General says violate fraud and competition laws.

Spitzer unveiled a law suit Thursday against the world’s largest insurance broker Marsh & McLennan for a common industry practice known as “contingent commissions.”

Contingent commissions are paid by insurance companies to reward brokers for sending business their way. Critics claim the payments encourage brokers to sell policies from those insurance companies offering the highest commissions, rather than the ones most suited to their customers.

Two executives from American International Group have pleaded guilty to charges related to the payments, Spitzer said during a televised press conference.

“The prevailing thought within the insurance community was that this investigation would result in minor disclosure changes or a slap on the wrist,” said Adam Klauber, an analyst at Cochran, Caronia & Co. “The fact that there are criminal charges suggests that Spitzer thinks parts of this business are really wrong and need changing.”

Shares of Marsh AIG and other leading insurance companies and brokers slumped. Marsh dropped 14 percent to \$39.70 and AIG lost nine percent to \$60.70.

Ace Ltd., Chubb Corp., Hartford Financial, and Munich Re's Munich American Risk Partners were also involved in the scheme, Spitzer said.

Interestingly, AIG is headed by longtime CEO Hank Greenberg. His sons Evan Greenberg and Jeff Greenberg are the CEOs, respectively, of reinsurer Ace and broker Marsh & McLennan.

Ace spokesman John Herbkersman said the company has received subpoenas from Spitzer as part of the investigation and is cooperating.

4. On this news, the Company's shares plummeted 9%.

5. During the Class Period defendants disseminated materially false and misleading financial statements. The true facts, which were known by each of the defendants but concealed from the investing public during the Class Period, were as follows:

(a) that the Company was paying illegal and concealed "contingent commissions" pursuant to illegal "contingent commission agreements;"

(b) that by concealing these "contingent commissions" and such "contingent commission agreements," the defendants violated applicable principles of fiduciary law, subjecting the Company to enormous fines and penalties totaling potentially tens – if not hundreds – of millions of dollars;

(c) that as a result of (a)-(b) above, as more fully described in ¶¶36-40, the Company's prior reported revenue and income was grossly overstated.

BACKGROUND AND SUMMARY OF THE ACTION

6. ACE is a holding company that, through its subsidiaries, provides a range of insurance and reinsurance products to insureds worldwide through operations in the United States and almost 50 other countries.

7. ACE and the Individual Defendants sought to capitalize on the Company's relationships with Marsh & McLennan ("Marsh") and inflate the Company's earnings per share during the Class Period.

8. There are basically three types of entities in the insurance market. First, there are clients: companies and individuals seeking to purchase insurance for their businesses, employees or themselves. Second, there are brokers and independent agents (collectively “brokers”), hired by clients to advise them as to needed coverage and to find insurance companies offering that coverage. Brokers represent the client, obtain price quotes, present the quotes to the client, and make recommendations to the client that include factors other than price, such as differences in coverage, an insurance company’s financial security, or an insurance company’s reputation for service or claims payment. Third, there are insurance companies. They submit quotes to the brokers and, if selected by the client, enter into a contract to provide insurance for that client’s risk.

9. In this structure, the client makes two types of payments: (1) it pays its broker an advisory fee or a commission for locating the best insurer, and (2) it pays the chosen insurance company premiums for the coverage itself. When the client pays a commission this is usually accomplished in one check to the broker, with the broker deducting the commission and forwarding the premium to the insurance company. Sometimes clients – particularly large commercial clients – break out the broker’s fee and pay it directly to the broker.

10. In addition to the first commission payment described above, brokers sometimes receive another kind of payment, as well, but not one from the clients. These are called contingent commissions and come from insurance companies pursuant to arrangements generally known as contingent commission agreements. The precise terms of these agreements vary, but they commonly require the insurance company to pay the broker based on one or more of the following: (1) how much business the broker’s clients place with the insurance company; (2) how many of the broker’s clients renew policies with the insurance company; and (3) the profitability of the business placed by the broker.

11. In the late 1990s, Marsh began to call these agreements “Placement Service Agreements” or “PSAs.” After recent public scrutiny, it has renamed them “Market Services Agreements” or “MSAs,” contending that they do not reflect payment for “a specific transaction or placement” but relate instead to the “services we provide” to insurance companies. Unbeknownst to Marsh’s clients, these “services” include steering business to complicit and profiting insurance companies by, among other things, rigging bids and fixing prices.

12. By way of brief background, during the 1980s and 1990s, the insurance brokerage industry underwent a period of consolidation. Beginning in the late 1990s, Marsh centralized its organization and assumed greater control over both business placement and contingent commission agreements.

13. According to New York Attorney General Eliot Spitzer, beginning in or around 2001 until at least the summer of 2004, Marsh Global Broking’s Excess Casualty Group and several insurance companies, including ACE, engaged in systematic bid manipulations.

14. When one of these insurance carriers was the incumbent carrier and a policy was up for renewal, Marsh solicited what was called an “A Quote” from the carrier, whereby Marsh provided the carrier with a target premium and the policy terms for the quote. If the carrier agreed to quote the target provided by Marsh, it kept the business, regardless of whether it could have quoted more favorable terms or premium.

15. In situations where another carrier was the incumbent, Marsh asked the carrier for what was variously referred to as a “backup quote,” “protective quote” or “B Quote,” telling the carrier that it would not get the business. In many instances, Marsh provided the carrier with a target premium and the policy terms for these quotes. In these cases, it was understood that the target premium set by Marsh was higher than the quote provided by the incumbent, and that the carrier should not bid below the Marsh-supplied target. Even when the carrier could have quoted a

premium lower than the target, it rarely did so. Instead, it provided a quote consistent with the target premium set by Marsh, thereby throwing the bid.

16. ACE is a Bermuda corporation that trades on the New York Stock Exchange. ACE USA is part of a group of subsidiaries that forms the ACE Insurance North America business division of ACE and operates out of Philadelphia, Pennsylvania. In 2002, ACE USA decided to enter the excess casualty market by creating a separate division, called the Casualty Risk Department. ACE USA signed a contingent commission agreement in order to gain access to the business Marsh controlled. ACE USA repeatedly provided the same type of B Quotes described above.

17. The B Quotes given to Marsh were often in amounts requested by Marsh, even though a lower quote would have been justified by an underwriting analysis.

18. An example of the operation of this system is evident in the bidding for the excess casualty insurance business of Fortune Brands, Inc., a holding company engaged in the manufacture and sale of home products, office products, golf products, and distilled spirits and wine. On December 17, 2002, an ACE USA assistant vice president of underwriting sent a fax to Greg Doherty, a senior vice president in Marsh Global Broking's Excess Casualty division, quoting an annual premium of \$990,000 for the policy. Later that day, ACE USA revised its bid upward to \$1,100,000. On the fax cover sheet with the revised bid, the assistant vice president wrote: "Per our conversation attached is revised confirmation. All terms & conditions remain unchanged." An email the next day from the assistant vice president to an ACE USA vice president of underwriting explained the revision as follows: "Original quote \$990,000 We were more competitive than AIG in price and terms. MMGB requested we increase premium to \$1.1M to be less competitive, so AIG does not loose [sic] the business."

19. The bidding process for excess casualty insurance for Brambles, USA, a manufacturer of commercial industrial pallets and containers (among other products), further demonstrates the bid-rigging scheme. In June of 2003, Brambles was unhappy with the incumbent carrier. Despite this, Marsh asked ACE USA to refrain from submitting a competitive bid because Marsh wanted the incumbent, AIG, to keep the business. ACE USA continued to provide Marsh with inflated quotes into 2004.

JURISDICTION AND VENUE

20. The claims asserted herein arise under §§10(b) and 20(a) of the Securities Exchange Act of 1934 (“1934 Act”), 15 U.S.C. §§78j(b) and 78t(a), and Rule 10b-5. Jurisdiction is conferred by §27 of the 1934 Act, 15 U.S.C. §78aa.

21. Venue is proper here pursuant to §27 of the 1934 Act. Acts and transactions giving rise to the violations of law complained of occurred here, and ACE has operations in this district.

THE PARTIES

22. Plaintiff Friends of Ariel Center for Policy Research purchased ACE securities as detailed in the attached Certification and was damaged thereby.

23. Defendant ACE is a holding company that, through its subsidiaries, provides a range of insurance and reinsurance products to insureds worldwide through operations in the United States and almost 50 other countries. During the Class Period, ACE had approximately 284 million shares of common stock outstanding, which shares traded in an efficient market on the New York Stock Exchange.

24. Defendant Evan G. Greenberg (“Greenberg”) is the CEO and President of the Company.

25. Defendant Brian Duperreault (“Duperreault”) is the Chairman of the Board of the Company.

26. Defendant Philip V. Bancroft (“Bancroft”) is the CFO of the Company.

27. Defendants are liable for the false statements pleaded herein, as those statements are each “group-published” information for which they are responsible. Defendants Greenberg, Duperreault and Bancroft (the “Individual Defendants”), by reason of their stock ownership and positions with and relations to ACE were controlling persons of ACE. ACE in turn controlled the Individual Defendants. The Individual Defendants and ACE are liable under §20(a) of the 1934 Act.

FALSE AND MISLEADING STATEMENTS DURING THE CLASS PERIOD

28. On October 28, 2003, the Company issued a press release entitled “ACE Limited Reports Third Quarter Results.” The press release stated in part:

ACE Limited today reported that fully diluted net income per share totaled \$1.22, which included after-tax net realized gains of \$51 million for the quarter. This compared with a net loss of \$0.24 per share for the quarter a year ago after considering \$205 million in net realized losses. Income excluding net realized gains (losses) for the third quarter of 2003 was up 105% to a record \$304 million, or \$1.04 per share, compared with \$148 million or \$0.53 per share for the same quarter last year.

Net premiums written increased 4% to \$2.3 billion for the quarter. Out of total net premiums written, consolidated property and casualty increased by 27%, while Financial Services declined 78% reflecting the erratic nature of production in this segment. Most of this decline was due to the absence of new loss portfolio transfer and equity CDO premium for the quarter.

Brian Duperreault, Chairman and Chief Executive Officer of ACE Limited commented: “This was another excellent quarter for our Company that once again demonstrated the growing strength of our organization, our global presence and diversified product capability. ACE recorded increased income before net realized gains (losses) in every operating segment for the quarter. We remain optimistic about business conditions for the balance of the year and beyond.”

Other operating highlights were as follows:

- The P&C combined ratio was 91.6% for the quarter compared with 98.0% a year ago
- Current quarter catastrophe losses totaled \$42 million or 1.9% of P&C earned premiums for the quarter, compared with \$100 million, or 6.7% of P&C earned premiums in the comparable quarter of 2002
- Operating cash flow amounted to \$1.1 billion for the quarter

- Net investment income increased 9% to \$216 million
- Diluted book value per ordinary share increased to \$27.76 from \$24.16 at December 30, 2002, up 15%

Shareholders' equity is \$8.3 billion, an increase of 31% from December 31, 2002. Tangible equity amounted to \$5.6 billion, a gain of 53% in the first nine months. Total capital resources were \$10.7 billion as of September 30, 2003. ACE's debt to total capital ratio improved to 17.7%. Income before net realized gains as a percent of average equity, including the application of FAS 115, on an annualized basis totaled 15.2% for the quarter, and 16.8% excluding FAS 115.

Financial results improved over the prior year's results for each segment; details are available in the financial supplement. Key items include:

- Insurance-North American: Net premiums written rose 23% in the quarter and the combined ratio was 91.9% reflecting the positive contributions made by the major business units.
- Insurance-Overseas General: Net premiums written were up 26% as reported and 19% excluding the effect of foreign exchange. The foreign exchange impact on earnings was minimal. The segment's combined ratio improved to 92.9%. We are experiencing particularly strong results in our European and Asia Pacific operations.
- Global Reinsurance: Net premiums written were up 66%, a result of our continued strategy to diversify our reinsurance operations into a multi-line reinsurer. This segment had an excellent combined ratio of 75.0% in the quarter. The company is developing its casualty reinsurance market with segment net premium written year-to-date of \$1 billion. We incurred catastrophe losses of \$12 million in the quarter.
- Financial Services: Net premiums written were \$105 million in the third quarter of 2003, principally arising from the Financial Guaranty business. Income excluding net realized gains (losses) was up 19% in the quarter. The segment had a \$26 million pre-tax realized gain on its FAS 133 mark-to-market and reported a combined ratio of 89.5% for the third quarter.

(Footnotes omitted).

29. On February 4, 2004, the Company issued a press release entitled "ACE Limited Reports Record Year-End, Fourth Quarter Results." The press release stated in part:

ACE Limited today reported that net income for 2003 was a record \$1.4 billion or \$4.93 per share, compared with net income of \$77 million or \$0.19 per share for the prior year. Income excluding net realized gains (losses) on investments for 2003 was up 142% to a record \$1.2 billion, or \$4.21 per share, compared with

\$494 million or \$1.74 per share for last year. The prior year included a charge of \$354 million in the fourth quarter related to asbestos and environmental reserves.

For the quarter ended December 31, 2003, net income was \$421 million or \$1.45 per share, compared with a net loss of \$168 million or \$0.67 per share for the prior year. Income excluding net realized gains (losses) on investments for the fourth quarter of 2003 was a record \$328 million, or \$1.12 per share, compared with a loss of \$99 million or \$0.41 per share for the same quarter last year.

Brian Duperreault, Chairman and Chief Executive Officer of ACE Limited, commented: "The record results of 2003 reflect the significant earnings power that ACE has built up over the last three years. With annual net income substantially in excess of \$1 billion, ACE has established a preeminent presence in the global property and casualty insurance industry. As we look ahead to 2004, we view our prospects for further growth with continued optimism."

Other 2003 operating highlights were as follows:

- Net premiums written increased 27% to \$10.2 billion, reflecting P&C net premium growth of 40%
- The P&C combined ratio was 91.1% for the year compared with 103.0% a year ago
- Operating cash flow amounted to a record \$4.2 billion for the year
- Cash and invested assets increased by \$5.3 billion
- Net investment income increased 7% to \$861 million
- Shareholders' equity increased 38% to \$8.8 billion
- Tangible equity rose to \$6.1 billion, a gain of 66% from year-end 2002
- Debt to total capital ratio improved to 16.9% from 20.9% at year-end 2002
- Return on equity for 2003 was a record 15.8%; excluding FAS 115, it was 17.2%
- Diluted book value per share as of December 31, 2003 increased 22% to \$29.38

Financial results improved over the prior year's results for virtually every business segment. Further details are available in the financial supplement. Key items include:

- Insurance-North American: Net premiums written increased 38% and the combined ratio improved to 90.6%.

- Insurance-Overseas General: Net premiums written also increased 38%. The segment's combined ratio improved to 93.0%.
- Global Reinsurance: Net premiums written were up 58%, a result of our continued strategy to diversify our reinsurance operations into multi-line reinsurance. This segment had a combined ratio of 75.7%.
- Financial Services: Net income increased 254% for the year reflecting a combined ratio of 94.4%.

As previously disclosed on December 2, 2003, ACE Limited intends to pursue an initial public offering of its financial guaranty business (ACE expects to offer approximately 65% to 75% of its interest in AGC Holdings Limited). The IPO is expected to be completed in the first half of 2004, subject to market conditions and receipt of various regulatory approvals.

(Footnotes omitted.)

30. On April 23, 2004, the Company issued a press release entitled "ACE Limited Announces Pricing of Assured Guaranty Initial Public Offering." The press release stated in part:

ACE Limited today announced that it has priced the common stock offering of 49,000,000 common shares of Assured Guaranty Ltd. ("Assured Guaranty") at \$18.00 per share. In addition, the underwriters have been granted an over-allotment option to purchase an additional 7,350,000 common shares at the initial public offering price. Assured Guaranty's common shares have been approved for listing on the New York Stock Exchange under the symbol "AGO." ACE, through a subsidiary, will continue to own approximately 35% of Assumed Guaranty after the offering or approximately 25% if the underwriters' over-allotment option is exercised in full. The closing of the offering is expected to occur on April 28, 2004.

ACE will receive net proceeds of approximately \$840.1 million (\$966.1 million if the underwriters' over-allotment option is exercised in full) in the offering. ACE expects to use the net proceeds to support its property and casualty insurance operations and for general corporate purposes.

31. On April 27, 2004, the Company issued a press release entitled "ACE Limited Reports First Quarter Results." The press release stated in part:

ACE Limited today reported net income for the first quarter ended March 31, 2004 of \$447 million or \$1.53 per share, compared with net income of \$247 million or \$0.90 per share for the prior year. Income excluding net realized gains (losses) for the first quarter increased 47% to \$411 million, or \$1.40 per share, compared with \$279 million or \$1.02 per share for the same period a year ago.

Brian Duperreault, Chairman and Chief Executive Officer of ACE Limited, commented: "ACE continues to make progress on every front. We grew rapidly in

our key businesses, improved our margins and strengthened our balance sheet. Tomorrow the successful initial public offering of our Financial Guaranty business will be closed, putting ACE in the strongest position it has ever been in to face the new business opportunities that lie ahead.”

Other first quarter operating highlights were as follows:

- Net premiums written increased 11% to \$3.2 billion, reflecting P&C net premium growth of 26%
- The P&C combined ratio improved to 88.4% for the quarter compared with 90.6% a year ago
- Operating cash flow amounted to \$1.2 billion for the quarter
- Cash and invested assets increased by \$2.2 billion
- Net investment income increased 16% to \$238 million, reflecting P&C net investment income growth of 19%
- Shareholders' equity increased 6% from year-end to \$9.4 billion and 40% over the prior year
- Tangible equity rose to \$6.7 billion, a gain of 9% from year-end and 68% over the prior year
- Debt to total capital ratio fell to 16.1% from 16.9% at year-end 2003
- Annualized return on equity for the quarter ended March 31, 2004 was 18.7%; excluding FAS 115, it was 20.4%
- Diluted book value per share as of March 31, 2004 increased 6% to \$31.36

Financial results improved over the prior year's results for virtually every business segment. Further details are available in the financial supplement. Key items include:

- Insurance-North American: Net premiums written increased 30% and the combined ratio improved to 89.4%.
- Insurance-Overseas General: Net premiums written increased 22%. The segment's combined ratio improved to 89.3%.
- Global Reinsurance: Net premiums written were up 28%. This segment had a combined ratio of 73.5%.
- Financial Services: Net income increased 48% for the quarter reflecting a combined ratio of 67.6%.

(Footnotes omitted.)

32. On June 2, 2004, the Company issued a press release entitled “ACE Limited Announces Issuance of \$500 Million Senior Notes by Subsidiary.” The press release stated in part:

ACE Limited announced today that its subsidiary, ACE INA Holdings Inc., has agreed to sell \$500 million principal amount of 5.875% Senior Notes due June 15, 2014. The notes are guaranteed by ACE Limited.

33. On July 27, 2004, the Company issued a press release entitled “ACE Limited Reports Second Quarter Results.” The press release stated in part:

ACE Limited today reported net income for the second quarter ended June 30, 2004 of \$413 million or \$1.41 per share, compared with net income of \$371 million or \$1.32 per share for the same quarter last year. Income excluding net realized gains (losses) for the second quarter increased 33% to \$380 million, or \$1.29 per share, compared with \$286 million or \$1.01 per share for the same quarter of last year.

Evan Greenberg, President and Chief Executive Officer of ACE Limited, commented: “This was an excellent quarter. All of our business segments performed well, which is a reflection of the investments we have made to increase both our product capability and physical presence globally. In light of a softening market, I remain confident in our ability to perform given our underwriting discipline and the diversity of our business opportunities.”

Other second quarter operating highlights were as follows:

- Net premiums written increased 19% to \$2.9 billion, reflecting P&C net premium growth of 25% over 2003
- The P&C combined ratio improved to 89.0% for the quarter compared with 91.7% a year ago
- Operating cash flow amounted to approximately \$1.1 billion for the quarter
- Cash and invested assets increased by \$546 million from March 31, 2004
- Net investment income increased 12% to \$236 million. P&C net investment income increased 24% over 2003
- Shareholders' equity decreased 2% from March 31, 2004, principally because unrealized losses on investments exceeded net income
- Tangible equity decreased to \$6.6 billion, a reduction from March 31, 2004 of 1%
- Debt to total capital ratio rose to 19.8% from 16.1% at March 31, 2004. In June 2004, the Company sold \$500 million of 10-year senior debt with a

5.875% coupon. The proceeds of this debt were used in July to redeem \$75 million of callable debt and will be used in August to refinance a maturing \$400 million bond.

- Annualized return on ordinary equity for the quarter ended June 30, 2004 was 16.9%; excluding FAS 115, it was 17.7%
- Diluted book value per ordinary share as of June 30, 2004 decreased 3% to \$30.46 from March 31, 2004

Financial results improved over the prior year's results for virtually every business segment. Further details are available in the financial supplement. Key items include:

- Insurance-North American: Net premiums written increased 37% and the combined ratio improved to 90.3%
- Insurance-Overseas General: Net premiums written increased 21% (11% after foreign exchange impact) and the combined ratio improved to 89.3%
- Global Reinsurance: Net premiums written were up 6% and this segment's combined ratio improved to 76.1%
- Financial Services (adjusted for Assured Guaranty): Income excluding realized gains (losses) increased 37% and the combined ratio improved to 80.6%

On April 28, 2004, the Company completed the sale of 65.3 percent of its financial and mortgage guaranty reinsurance and insurance businesses through the initial public offering (IPO) of 49 million common shares of Assured Guaranty Ltd. at \$18.00 per share. The Company received total proceeds of approximately \$1.035 billion. This comprised \$835 million of net offering proceeds and a return of capital of \$200 million. This was a beneficial transaction for ACE as it enabled capital to be reallocated to higher growth, higher ROE businesses and reduced its overall credit exposure. As a result of the transaction, the Company's book value declined by approximately \$61 million, comprising an \$18 million after tax loss and a \$43 million reduction to other comprehensive income, representing a reclassification of previously unrealized investment gains to income.

(Footnotes omitted.)

DEFENDANTS' SCHEME UNRAVELS

34. On October 14, 2004, *CBS MarketWatch* issued an article entitled "Spitzer attacks insurance industry." The article stated in part:

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largest broker with bid rigging and pay-offs that the New York Attorney General says violate fraud and competition laws.

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Ace spokesman John Herbkersman said the company has received subpoenas from Spitzer as part of the investigation and is cooperating.

35. The true facts which were known by each of the defendants, but concealed from the investing public during the Class Period, were as follows:

(a) that the Company was paying illegal and concealed "contingent commissions" pursuant to illegal "contingent commission agreements;"

(b) that by concealing these "contingent commissions" and such "contingent commission agreements," the defendants violated applicable principles of fiduciary law, subjecting the Company to enormous fines and penalties totaling potentially tens – if not hundreds – of millions of dollars;

(c) that as a result of (a)-(b) above, as more fully described in ¶¶36-40, the Company's prior reported revenue and income was grossly overstated.

MISLEADING FINANCIAL STATEMENTS

36. In order to overstate its earnings during the Class Period, ACE violated Generally Accepted Accounting Principles ("GAAP") and SEC rules by failing to properly report and disclose the illegal nature of its revenue during the Class Period.

37. These financial statements and the statements about them were false and misleading, as such financial information was not prepared in conformity with GAAP, nor was the financial information a fair presentation of the Company's operations due to the Company's improper accounting for and disclosure about its revenues, in violation of GAAP and SEC rules. ACE manipulated financial statements by allowing the Company to generate fees which it was not entitled to, which revenues may be forfeited (via fines, judgments and costs associated therewith) and which artificially inflated ACE's revenue and income and receivables.

38. GAAP are those principles recognized by the accounting profession as the conventions, rules and procedures necessary to define accepted accounting practice at a particular time. Regulation S-X (17 C.F.R. §210.4-01(a) (1)) states that financial statements filed with the SEC which are not prepared in compliance with GAAP are presumed to be misleading and inaccurate. Regulation S-X requires that interim financial statements must also comply with GAAP, with the exception that interim financial statements need not include disclosure which would be duplicative of disclosures accompanying annual financial statements. 17 C.F.R. §210.10-01(a).

39. Due to these accounting improprieties, the Company presented its financial results and statements in a manner which violated GAAP, including the following fundamental accounting principles:

(a) The principle that interim financial reporting should be based upon the same accounting principles and practices used to prepare annual financial statements was violated (APB No. 28, ¶10);

(b) The principle that financial reporting should provide information that is useful to present and potential investors and creditors and other users in making rational investment, credit and similar decisions was violated (FASB Statement of Concepts No. 1, ¶34);

(c) The principle that financial reporting should provide information about the economic resources of an enterprise, the claims to those resources, and effects of transactions, events and circumstances that change resources and claims to those resources was violated (FASB Statement of Concepts No. 1, ¶40);

(d) The principle that financial reporting should provide information about how management of an enterprise has discharged its stewardship responsibility to owners (stockholders) for the use of enterprise resources entrusted to it was violated. To the extent that management offers securities of the enterprise to the public, it voluntarily accepts wider responsibilities for accountability to prospective investors and to the public in general (FASB Statement of Concepts No. 1, ¶50);

(e) The principle that financial reporting should provide information about an enterprise's financial performance during a period was violated. Investors and creditors often use information about the past to help in assessing the prospects of an enterprise. Thus, although investment and credit decisions reflect investors' expectations about future enterprise performance, those expectations are commonly based at least partly on evaluations of past enterprise performance (FASB Statement of Concepts No. 1, ¶42);

(f) The principle that financial reporting should be reliable in that it represents what it purports to represent was violated. That information should be reliable as well as relevant is a notion that is central to accounting (FASB Statement of Concepts No. 2, ¶¶58-59);

(g) The principle of completeness, which means that nothing is left out of the information that may be necessary to insure that it validly represents underlying events and conditions was violated (FASB Statement of Concepts No. 2, ¶79); and

(h) The principle that conservatism be used as a prudent reaction to uncertainty to try to ensure that uncertainties and risks inherent in business situations are adequately considered was violated. The best way to avoid injury to investors is to try to ensure that what is reported represents what it purports to represent (FASB Statement of Concepts No. 2, ¶¶95, 97).

40. Further, the undisclosed adverse information concealed by defendants during the Class Period is the type of information which, because of SEC regulations, regulations of the national stock exchanges and customary business practice, is expected by investors and securities analysts to be disclosed and is known by corporate officials and their legal and financial advisors to be the type of information which is expected to be and must be disclosed.

DEFENDANTS' SCIENTER

41. Defendants are ACE and its top officers and directors. Each of the Individual Defendants, by virtue of their high-level positions with ACE, directly participated in the management of ACE, was directly involved in the day-to-day operations of ACE at the highest levels and was privy to confidential proprietary information concerning ACE and its business, operations, products, growth, financial statements and financial condition and was aware of or deliberately disregarded that the false and misleading statements were being made by and regarding the Company. Because of their managerial positions with ACE, each of the Individual Defendants had access to the adverse undisclosed information about ACE's business, financial condition and

prospects and knew (or deliberately disregarded) that the adverse facts alleged herein rendered the positive representations made during the Class Period materially false and misleading.

42. Defendants were personally familiar with the quality of the Company's revenues/receivables because they monitored ACE's revenue, closely monitoring the performance of ACE's operations via reports from ACE's Finance Department, which were generated and provided to the Individual Defendants on a regular basis. The reports summarized the sales, amount billed, credit terms and product type. As a result of their monitoring, defendants were aware that ACE would be unable to meet its projected results, unless they continued to engage in their illegal scheme. Defendants were also or should have been keenly aware that their "record" results were actually the result of illegal contingent commission agreements. By way of defendants' illegal conduct, defendants were able to consummate a spin-off IPO where the Company raised \$840 million and a Note offering raising an additional \$500 million.

CLASS ACTION ALLEGATIONS

43. This is a class action on behalf of purchasers of ACE publicly traded securities during the Class Period, excluding defendants (the "Class"). Excluded from the Class are officers and directors of the Company, as well as their families and the families of the defendants. Class members are so numerous that joinder of them is impracticable.

44. Common questions of law and fact predominate and include whether defendants: (i) violated the 1934 Act; (ii) omitted and/or misrepresented material facts; (iii) knew or recklessly disregarded that their statements were false; and (iv) artificially inflated the prices of ACE's publicly traded securities and the extent of and appropriate measure of damages.

45. Plaintiff's claims are typical of those of the Class. Prosecution of individual actions would create a risk of inconsistent adjudications. Plaintiff will adequately protect the interests of the

Class. A class action is superior to other available methods for the fair and efficient adjudication of this controversy.

FIRST CLAIM FOR RELIEF

For Violation of §10(b) of the 1934 Act and Rule 10b-5 Against All Defendants

46. Plaintiff incorporates by reference ¶¶1-45 herein.
47. Defendants violated §10(b) and Rule 10b-5 by:
 - (a) Employing devices, schemes and artifices to defraud;
 - (b) Making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and
 - (c) Engaging in acts, practices and a course of business that operated as a fraud or deceit upon the Class in connection with their purchases of ACE publicly traded securities.
48. Class members were damaged as they paid artificially inflated prices for ACE's publicly traded securities in reliance on the integrity of the market.

SECOND CLAIM FOR RELIEF

For Violations of §20(a) of the 1934 Act Against All Defendants

49. Plaintiff incorporates by reference ¶¶1-48 herein.
50. The Individual Defendants acted as controlling persons of the Company within the meaning of §20(a) of the 1934 Act, 15 U.S.C. §78t(a), as alleged herein. By virtue of their stock ownership, high-level positions, and participation in and/or awareness of the Company's operations, the Individual Defendants had the power to influence and control and did influence and control, directly or indirectly, the decision-making of the Company, including the content and dissemination of the various statements that plaintiff contends are false and misleading. The Individual Defendants were provided with or had unlimited access to copies of the Company's reports, press releases,

public filings and other statements alleged by plaintiff to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected.

51. In particular, the Individual Defendants had direct and supervisory involvement in the day-to-day operations of the Company and, therefore, are presumed to have had the power to control or influence the particular transactions giving rise to the securities violations as alleged herein, and exercised the same. ACE controlled the Individual Defendants and all of its employees.

52. By reason of such wrongful conduct, defendants are liable pursuant to §20(a) of the 1934 Act. As a direct and proximate result of the wrongful conduct, plaintiff and other members of the Class suffered damages in connection with their purchases of the Company's publicly traded securities during the Class Period.

PRAYER FOR RELIEF

WHEREFORE, plaintiff, individually and on behalf of the Class, prays for judgment as follows:

A. Declaring this action to be a class action properly maintained pursuant to Rule 23 of the Federal Rules of Civil Procedure;

B. Awarding plaintiff and other members of the Class damages together with interest thereon;

C. Awarding plaintiff and other members of the Class costs and expenses of this litigation, including reasonable attorneys' fees, accountants' fees and experts' fees and other costs and disbursements; and

D. Awarding plaintiff and other members of the Class such equitable/injunctive or other and further relief as may be just and proper under the circumstances.

JURY DEMAND

Plaintiff demands a trial by jury.

DATED: October 19, 2004

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