SECOND CONSOLIDATED AMENDED CLASS ACTION COMPLAINT

Lead plaintiff, through his undersigned counsel, makes the following allegations, except as to allegations specifically pertaining to himself, based upon the investigation undertaken by plaintiff's counsel, which included analysis of publicly-available news articles and reports, public filings, press releases, court records and pleadings, and other matters of public record, interviews with witnesses possessing first-hand knowledge of the facts alleged herein, and consultation with a forensic accountant.

NATURE OF THE ACTION

1. This is a class action on behalf of all purchasers of the common stock of Gainsco, Inc. ("Gainsco" or the "Company") between November 17, 1999 and February 7, 2002, inclusive, (the "Class Period"), seeking to pursue remedies under the Securities Exchange Act of 1934 (the "Exchange Act").
2. Gainsco is an insurance company that traditionally sold commercial trucking insurance. In 1998, Gainsco sought to diversify its business and enter the non-standard personal passenger auto insurance market. To that end, in 1998, Gainsco acquired Lalande Financial Group, Inc. ("Lalande") based in Miami, Florida which specialized in underwriting non-standard personal automobile insurance. "Non-standard" refers to selling insurance to higher risk individuals.

3. On November 17, 1999, the start of the Class Period, Gainsco announced that as part of its diversification strategy, it would acquire another company specializing in selling non-standard personal auto insurance, Tri-State, Ltd. ("Tri-State"), a private company based in North Dakota, for roughly $9 million. Tri-State had been a profitable seller of non-standard personal auto insurance. Tri-State managed its higher risk non-standard auto insurance underwriting by selling many of its policies as ones that could only be renewed each month. If customers failed to pay their premiums on time, their policy could be cancelled immediately. As a result, Tri-State had a very low "loss ratio," a standard measure of the relationship between the amount of claims paid to the premiums taken in. Tri-State then enjoyed a "very good" rating from AM Best, the insurance rating agency, due to Tri-State's "strict underwriting and claims procedures."

4. When Gainsco announced its intent to purchase Tri-State, it did not disclose that Gainsco intended to convert Tri-State's insurance policies to those of subsidiaries of Gainsco and to change the short (one-month) renewal period that Tri-State had imposed on its policy holders to a more lenient six-month renewal period with a lengthy "grace period" that permitted customers to pay premiums after the due date, even after they had sustained an accident.

5. Soon after Gainsco acquired Tri-State on January 7, 2000, Tri-State began losing money, due primarily to the longer policy renewal period and the granting of a lenient grace period.
for policy holders to pay delinquent premiums. This change had a disastrous effect on Tri-State’s loss ratio, because the Company was now in effect “buying claims” from the highest risk segment of its non-standard auto insurance.

6. According to a confidential witness who served as Vice-President of Gainsco’s Actuarial Services (W-3), CEO and President Glenn W. Anderson (“Anderson”) and CFO Daniel J. Coots (“Coots”) (both defendants herein), learned almost immediately after the acquisition that Tri-State was losing money. Anderson and Coots received quarterly financial reports from W-3 showing that Tri-State was losing money. W-3 prepared financial reports which W-3 sent quarterly to defendants Anderson and Coots throughout the Class Period. These financial reports showed in a section headed “Tri-State Results” that Tri-State was not profitable, and showed repeatedly during the entire Class Period that Tri-State was losing money. According to W-3, Coots prepared Gainsco’s quarterly and annual reports filed with the SEC and used the financial reports that W-3 prepared to draft these SEC filings.

7. As 2000 wore on, Tri-State’s profitability continued to decline. According to a confidential witness described below (W-4), Tri-State regularly sent written reports of its declining profitability to Gainsco’s accounting department, run by Lori McKnight, a vice-president in Gainsco’s Accounting Department. McKnight prepared all of Gainsco’s financial statements, was responsible for preparing Gainsco’s reports to the states, and worked on preparing SEC-filed documents with defendant Coots. McKnight reported directly to Coots and prepared monthly reports on the profitability of Tri-State (and Gainsco’s other divisions) for Coots and defendant Anderson.

8. Gainsco was well aware of the losses sustained by Tri-State immediately after the company was acquired. Nevertheless, Anderson and Coots repeatedly spoke to analysts on quarterly
conference calls, but said nothing about the financial problems at Tri-State. Gainsco eventually filed a civil complaint against the President of Tri-State, Herbert A. Hill ("Hill"), which contained several judicial admissions that Gainsco knew that at least by mid-2000, Tri State had lost profitability. (According to Hill, who had written to Anderson about Tri-State’s poor financial performance for 2000, the losses stemmed from the conversion of Tri-State’s policies to Gainsco’s more lenient renewal and grace periods.) Unbeknownst to the investing public, Tri-State had begun to lose profitability even before July 2000, according to Gainsco’s civil complaint, filed long after Tri-State’s profitability had declined in 2000. (Gainsco, Inc. v. Herbert A. Hill, Case No. 01-4660E-(Dallas County, Texas, 101st Judicial District) (filed June 6, 2001). Gainsco never made any disclosures to the investing public of the lost profitability at Tri-State or the managerial problems it claimed to have had with Hill in the declaratory judgment action it filed against him in June 2001.

9. In November 2000, Anderson told W-3 that he (Anderson) could not afford politically to tell the Gainsco board of directors the truth about the Tri-State losses so soon after the acquisition. Anderson instructed W-3 to “hide” Tri-State’s poor performance numbers from the board in Lalande Group’s or in the overall Gainsco numbers. At Anderson’s instructions, Gainsco board members were given financial information at board meetings that masked Tri-State’s poor financial performance.

10. Because of Tri-State’s lost profitability, the impairment to Tri-State’s substantial goodwill -- over $5 million -- should have been recognized no later than the end of the second quarter of 2000 (June 30, 2000). Instead, Gainsco concealed the problems at Tri-State from investors and continued to carry Tri-State’s goodwill throughout 2000 and most of 2001, at the same value it recorded Tri-State’s goodwill at the time of acquisition, in January 2000. This was highly significant.
because Gainsco's stated strategy was to diversify its commercial trucking insurance business by buying Lalande and Tri-State. But the truth was that Gainsco needed to unwind one of the very transactions on which it told the public it intended to grow. Anderson and Coots, however, remained silent. (See Exhibits A & B annexed hereto).

11. Even after June 2001, when Gainsco sued Hill, its own Tri-State subsidiary head -- an extraordinary step -- Gainsco made no public announcement of the suit, and did not file a Form 8-K with the SEC (for unusual or extraordinary corporate events) disclosing the lawsuit. Not until August 9, 2001, however, did Gainsco give any hint that anything was wrong at Tri-State. In a press release on that date, Gainsco disclosed for the first time that it was selling the agency operations of Tri-State and would write off the goodwill -- over $5 million -- attributable to Gainsco's original investment in Tri-State. Gainsco never revealed, however, that Tri-State had suffered lost profitability since mid-2000. In addition, Gainsco told the public that the "current outlook for its ongoing commercial and Florida nonstandard private passenger automobile businesses is positive."

12. On August 14, 2001, Gainsco finally took a $5,086,283 charge to earnings based on impairment of the goodwill to the Tri-State subsidiary. According the W-3, the Gainsco board was furious when it learned of Tri-State's true financial condition. Gainsco announced that it was getting out of the nonstandard private passenger auto insurance business in the upper Midwest (Tri-State's sales area), and would sell Tri-State back to Hill for $900,000.

13. The Company's August 9, 2001 announcement, however, lulled the investing community into believing that the worst was over for Gainsco. On February 7, 2002, the Company issued a press release warning investors that it "expect[ed] to report a significant loss for the fourth quarter and year end December 31, 2001." The Company also announced that it planned to
"discontinue writing commercial lines insurance due to continued adverse claims development and unprofitable results." The Company’s stock fell approximately 45% on the news.

**JURISDICTION AND VENUE**

14. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§1331, 1337 and 1367 and Section 27 of the Exchange Act (15 U.S.C. § 78aa).

15. This action arises under Sections 10(b) and 20(a) of the Exchange Act (15 U.S.C. § 78j(b) and 78t(a)) and Rule 10b-5 promulgated thereunder (17 C.F.R. § 240.10b-5).

16. Venue is proper in this District pursuant to Section 27 of the Exchange Act (15 U.S.C. § 78aa) and 28 U.S.C. § 1391(b) and (c). As will be explained more fully herein, substantial acts in furtherance of the alleged fraud and/or its effects have occurred within this District. In addition, Gainsco maintains offices in Miami, Florida, in this District, through which it conducts all or most of its ongoing insurance business. Lalande maintains offices at 730 NW 107th Avenue, in Miami, Florida and operates Gainsco’s “Lambda system,” a computer system used for writing automobile insurance policies, monitoring policy premiums, monitoring claims activity, determining the rates for policies issued, and performing various functions in the claims handling process. (Gainsco, Inc. v. Hill, No. 01-04660E, ¶9). Lalande has approximately 180 employees in Miami. During the Class Period, Miami-based Lalande oversaw Tri-State’s accounting needs. Lalande’s Lambda software system handled Tri-State’s personal automobile premium-monitoring and policy writing needs. (Gainsco, Inc. v. Hill, No. 01-04660E, ¶14). Additionally, key witnesses reside within this District, including MacRae Johnston, the former head of Lalande, to whom Hill, Tri-State’s former President reported. During the Class Period, Gainsco’s non-standard personal automobile insurance division (“the Personal Lines Division”) was run primarily out of its Miami, Florida office. As will be more
fully explained herein, this case involves false and misleading statements made about the profitability of the Company’s Personal Lines Division.

17. In connection with the acts and omissions alleged in this complaint, defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including, but not limited to, the mails, interstate telephone communications, and the facilities of the national securities markets.

PARTIES

18. Gainsco shareholder David Varney was appointed by the Court to serve as lead plaintiff in this action by order filed October 16, 2003. Mr. Varney purchased Gainsco common stock during the Class Period, as set forth in the certification attached to the motion for appointment as lead plaintiff, which is incorporated herein by reference, and was damaged thereby.

19. According to the Company’s Form 10-K, for the fiscal year ending December 31, 2002, filed with the SEC on March 28, 2003 ("the 2002 Annual Report"), defendant Gainsco “is a property and casualty insurance company concentrating its efforts on the nonstandard personal automobile market in Florida.” Gainsco writes its “non-standard” lines of insurance on certain classes and types of risks which are not generally insured by many insurance companies.

20. The individual defendants, at all times relevant to this action, served in the capacities listed below and received substantial compensation:

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anderson</td>
<td>President and Chief Executive Officer (April 1998 - present)</td>
</tr>
<tr>
<td>Coots</td>
<td>Senior Vice President, Treasurer and CFO (1987 - present)</td>
</tr>
</tbody>
</table>
21. The Individual Defendants, as senior officers and/or directors of Gainsco were controlling persons of the Company. Each exercised their power and influence to cause Gainsco to engage in the fraudulent practices complained of herein.

22. Each of the defendants is liable as a participant in a fraudulent scheme and course of business that operated as a fraud or deceit on purchasers of Gainsco common stock, by personally disseminating materially false and misleading statements and/or concealing material adverse facts. As part of the scheme alleged herein, the defendants (i) deceived the investing public regarding Gainsco’s business, its finances and the intrinsic value of Gainsco common stock; and (ii) caused plaintiffs and other members of the Class to purchase Gainsco common stock at artificially inflated prices.

**PLAINTIFF’S CLASS ACTION ALLEGATIONS**

23. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of a Class, consisting of all persons who purchased or otherwise acquired Gainsco common stock between November 17, 1999 and February 7, 2002, inclusive (the “Class Period”), and who were damaged thereby. Excluded from the Class are defendants, members of the immediate family of each of the Individual Defendants, any subsidiary or affiliate of Gainsco and the directors, officers and employees of Gainsco or its subsidiaries or affiliates, or any entity in which any excluded person has a controlling interest, and the legal representatives, heirs, successors and assigns of any excluded person.

24. The members of the Class are so numerous that joinder of all members is impracticable. While the exact number of Class members is unknown to plaintiff at this time and can only be ascertained through appropriate discovery, plaintiff believes that there are thousands of
members of the Class located throughout the United States. According to the 2002 Annual Report, the Company had 22,013,830 shares of common stock issued at December 31, 2002. Throughout the class period, and until on or about April 15, 2002, Gainsco common stock was actively traded on the New York Stock Exchange ("NYSE") (an open and efficient market) under the symbol "GNA." Gainsco’s stock was delisted from the NYSE on or about April 15, 2002, because the Company failed to maintain NYSE’s minimum market capitalization requirements. Gainsco common stock currently trades on the OTC Bulletin Board under the symbol "GNAC.OB." Record owners and other members of the Class may be identified from records maintained by Gainsco and/or its transfer agents and may be notified of the pendency of this action by mail, using a form of notice similar to that customarily used in securities class actions.

25. Plaintiff’s claims are typical of the claims of the other members of the Class as all members of the Class were similarly affected by defendants’ wrongful conduct in violation of federal law that is complained of herein.

26. Plaintiff will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class and securities litigation.

27. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

a. whether the federal securities laws were violated by defendants' acts and omissions as alleged herein;

b. whether defendants participated in and pursued the common course of conduct complained of herein;
c. whether documents filed with the SEC, press releases, and other statements disseminated to the investing public and the Company's shareholders during the Class Period misrepresented material facts about the business, finances, financial condition and prospects of Gainsco;

d. whether statements made by defendants to the investing public during the Class Period misrepresented and/or omitted to disclose material facts about the business, finances, value, performance and prospects of Gainsco;

e. whether the market price of Gainsco common stock during the Class Period was artificially inflated due to the material misrepresentations and failures to correct the material misrepresentations complained of herein; and

f. the extent to which the members of the Class have sustained damages and the proper measure of damages.

28. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation make it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this suit as a class action.

SUBSTANTIVE ALLEGATIONS

Background to the Scheme

29. Gainsco has provided insurance services since 1978. The Company began selling shares to the public on November 14, 1986. Before 1999, the Company focused on writing commercial auto policies (primarily for the trucking industry) and auto garage policies. The 1998
Annual Report reflects that for 1996, 1997 and 1998, the Company derived 1% or less of gross premiums from personal auto insurance policies.

30. Throughout the class period and to this day, Gainsco has been listed and rated in the A.M. Best Insurance Reports. A.M. Best is an independent entity that reviews, analyzes and rates insurance companies nationwide, primarily as a service to consumers. It is the leading provider of insurance grading services. A.M. Best publishes its ratings, and provides a “rating rationale,” explaining the reason for the rating, and particularly the reason for any change in the rating. Insurance companies are very conscious of their A.M. Best rating; Gainsco, for instance, routinely advises shareholders in its SEC filings of the Company’s current A.M. Best rating. When defendant Anderson assumed the role of CEO in 1998, Gainsco had an A.M. Best rating of “A+.” As of March 28, 2003, Gainsco’s A.M. Best rating had fallen to “B- (fair).”

31. The Company announced on August 28, 1998, that its Board of Directors “had determined to commence pursuit of additional strategic alternatives to maximize shareholder value, including a possible sale of the Company, and had engaged Wasserstein Perella & Co., Inc. to assist in the process.” (See 1998 Form 10-K)

32. While this “strategic review” was in progress, Gainsco on October 23, 1998 acquired Lalande Financial Group, Inc. (“Lalande”), a privately-owned Miami, Florida based operation specializing in underwriting, servicing and claims adjusting in the nonstandard personal automobile insurance market in Florida. (See 1998 Annual Report). Lalande was comprised of National Specialty Lines, Inc. (“NSL”), a managing general agent which marketed nonstandard personal automobile insurance through approximately 800 retail agencies in Florida, and DeLaTorre Insurance Adjusters (“DLT”), an automobile claims adjusting firm. (Id.). Gainsco paid $18 million cash for
Lalande and agreed to pay an additional $22 million in cash over five years, contingent on Lalande’s performance. (Id.). The Company borrowed $18 million from a commercial bank to make the Lalande acquisition. (Id.).

33. In an article published on May 24, 1999, Anderson was quoted as stating that the driving force behind the Lalande acquisition was diversification. According to the article, prior to the Lalande acquisition, Gainsco did not sell insurance to the nonstandard private passenger auto market. In a letter to Shareholders, signed by Anderson, included in the Company’s Form 10-K Annual report for fiscal year ending December 31, 1999 (filed with the SEC on March 30, 2000) (“the 1999 Annual Report”), Anderson touted an initiative to “contin[ue] the profitable expansion and diversification of our insurance operations into additional underserved markets.” Anderson also stated in this letter that in 1999, the Company had established a new Personal Lines Division intended “to develop three key nonstandard market segments in the years ahead: personal automobile, umbrella and property.” The same letter touted the Lalande acquisition as the Company’s jumping off point for entering the nonstandard personal auto market. The 1999 Annual Report identifies McRae Johnston as President of Gainsco’s newly-established Personal Lines Division.

34. According to Gainsco’s Schedule 14-A Proxy Statement filed with the SEC on August 16, 1999, the Company entered into a Stock Purchase Agreement in 1999 with Goff Moore Strategic Partners (“GMSP”). Pursuant to the Stock Purchase Agreement, Gainsco received $31,620,000 in cash and GMSP received preferred stock and warrants giving GMSP control over 23% of Gainsco’s common stock. As part of this transaction, Gainsco also agreed that it and all its subsidiaries would enter into Investment Management Agreements with GMSP, permitting GMSP
to manage all of Gainsco’s assets, and to receive a fee for this service. GMSP also received two seats on Gainsco’s Board of Directors as a result of this investment. In stating the reasons for this transaction in the Proxy Statement, the Company stated:

A key element of the Company’s long term growth plan is to build through acquisition upon the Company’s traditional nonstandard commercial lines and the nonstandard personal lines operations of the Lalande Group acquired in 1998. The Board believes growth through acquisition is a very attractive opportunity for the Company in view of the consolidation process that is occurring in the insurance industry. . . . The Company anticipates that a portion of the cash proceeds will be used for insurance-related acquisitions.

The Class Period Begins

35. The Class Period begins on November 17, 1999. On that date, the Company issued a press release announcing the acquisition of Tri-State, a private insurance company located in North Dakota, owned by Herb Hill and Alan Heidt. The press release stated that Tri-State specialized primarily in underwriting, servicing and claims handling of nonstandard private passenger automobile insurance in Minnesota, North Dakota and South Dakota:

The acquisition of Tri-State begins the planned geographic expansion of our non-standard private passenger automobile business from our base established last year with the acquisition of the Lalande Group in Miami, Florida,” said Glenn W. Anderson, GAINSCO’s president and chief executive officer. ‘Tri-State is a profitable niche distributor and insurer of $16 million of annual premium, the bulk of which is nonstandard private passenger automobile business in the upper Midwest, and is very capably led by its president and founder, Herb Hill,’ Anderson said.

Following the completion of this transaction, Herb will be teaming up with Mac Johnston and Carlos De la Torre of the Lalande Group [in Miami] to implement a dynamic business growth strategy. Tri-State will serve as a regional marketing hub from which we expect to expand into additional targeted states. Simultaneously, we plan to integrate all processing of Tri-State business with Lalande’s underwriting and claims systems to maximize service and cost efficiency. As part of this process, it is anticipated that Tri-State’s agents will be converted onto Lalande’s developing
internet-based, real-time, policy quoting and issuance system in the year 2000. We are truly excited to be welcoming Herb and his team to GAINSCO,' Anderson said.

Tri-State operates a managing general agency, a motor vehicle driving records service company and an insurance subsidiary, Midwest Casualty Insurance Company. Tri-State was incorporated in 1980 and currently markets nonstandard private passenger insurance through over 320 retail agencies in its three key states and commercial automobile insurance in four states. After completion of the transaction, Tri-State will continue to operate at its current locations to develop personal and commercial lines business.

'We are looking forward to joining the GAINSCO team,' Herb Hill, a 28-year veteran of the insurance industry and president of Tri-State. 'We've developed a strong niche in our region, and have captured about a ten percent market share in the nonstandard private passenger automobile segments we serve. We believe Tri-State will be able to take advantage of more rapid growth opportunities by linking our regional niche expertise with Lalande's developing internet-based systems support and GAINSCO's value building strategies,' Hill said.

The purchase price consideration will consist of $6.0 million in cash at closing, plus additional payments of up to approximately $5.5 million in cash over the next several years, based on conversion of business to GAINSCO, meeting specific profitability targets and Tri-State's 1999 year-end book value. Tri-State's insurance subsidiary, Midwest Casualty Insurance Company, had approximately $2.8 million of policyholders' surplus at September 30, 1999.

The transaction is subject to customary contractual provisions and regulatory approvals and is expected to close in early 2000. The acquisition, which will be funded from existing internal funds, is expected to be minimally accretive to earnings in 2000, which will be the transition period to a totally integrated business line.

36. A press article dated November 18, 1999 on the Tri-State acquisition, noted that the purchase price of $6 million represented more than a 100% premium over Tri-State's book value of about $2.8 million. The same article stated accurately that Gainsco's stock rose 19 cents a share on the news, to close on November 17, 1999 at $5.94.

37. Gainsco's description of the Tri-State acquisition in the November 17, 1999 press release was false and misleading because the Company failed to disclose that it intended to impose
more lenient underwriting and claims procedures on Tri-State’s book of insurance policies, a practice that defendants knew or recklessly ignored would negatively affect Tri-State’s net income. As discussed below, prior to the acquisition, Tri-State had maintained strict underwriting and claims procedures, including a one-month billing cycle which allowed no grace period for late premium payments. Defendants knew when the November 17, 1999 press release was issued that these strict procedures would be changed after Tri-State was legally acquired, and a six-month billing cycle would be adopted giving policy holders grace periods to pay their premiums. Defendants knew, or recklessly ignored, that Tri-State could not maintain its pre-acquisition loss ratio and profitability after the adoption and implementation of these claims and underwriting policies.

38. According to W-1, a former Gainsco employee working in Gainsco’s executive offices when Lalande and Tri-State were acquired, and based on first hand knowledge of Gainsco’s operations, one of Gainsco’s first orders of business after the 1998 Lalande acquisition, was to reissue Lalande’s in-force policies as policies of one of the existing Gainsco subsidiaries. W-1 referred to this process as “moving Lalande’s policies on to Gainsco’s book.” W-1 stated that, based on his/her first hand experience with the Lalande acquisition, he/she believed that Gainsco intended to do the same with Tri-State’s in-force policies and those of its MCIC subsidiary, namely, reissue the Tri-State/MCIC policies as policies of one of Gainsco’s insurance subsidiaries. As explained below, this is what in fact occurred.

1 “Loss ratio” within the insurance industry is defined as the quotient of (i) Incurred Losses and Loss Adjustment for the period, and (ii) Earned Premiums for the period. An insurance operation’s “loss ratio” is widely viewed within the industry as a significant indicator of the financial success of an insurance operation.
39. Tri-State’s MCIC subsidiary underwrote the bulk of Tri-State’s insurance policies. In 1999, A.M. Best assigned MCIC a rating of “B+(very good),” the last A.M. Best rating before Tri-State was acquired. A.M. Best’s 1999 “Rating Rationale” for MCIC (prior to announcement of the Gainsco acquisition) stated:

The rating reflects the company’s favorable capitalization, improved operating performance, and very good balance sheet liquidity. **These positive attributes are derived from Midwest Casualty’s modest underwriting leverage, improved expense structure, and conservative investment profile. The rating also recognizes management’s commitment to strict underwriting and claims procedures.** Offsetting these positive factors is the company’s product and geographic concentration of risks. In addition, operating flexibility is somewhat limited by increased competition as well as Midwest Casualty’s limited capital base. In addition, the company’s historical earnings lag industry standards, and results continue to be impacted by unfavorable reserve development. Nonetheless, based on the company’s adequate capitalization and improved underwriting results, A.M. Best views the rating outlook as positive. (Emphasis added).

40. By changing MCIC’s “strict underwriting and claims procedures,” defendants knew or recklessly disregarded that they would be eliminating an important contributor to Tri-State’s historical profitability. Tri-State’s business was dedicated to selling non-standard passenger auto insurance. “Non-standard” means that Tri-State was selling to customers who were a higher risk than “standard” policy holders. Before Gainsco’s acquisition of it, Tri-State managed this risk by enforcing strict underwriting and claims procedures. For example, Tri-State sold policies to its non-standard customers that were renewable each month. According to W-2, this allowed Tri-State to immediately cancel the policy of any customer who failed to timely pay their monthly insurance policy. Gainsco knew that it would be converting Tri-State’s book of policies over to its own subsidiaries and as a consequence would be issuing new policies renewable every six months. These new six month auto insurance policies, however, gave customers a “grace period” to pay their
premiums beyond the stated due date. As discussed below, the grace period had disastrous effects on Tri-State's profitability because it was no longer able to manage the increased risk of selling non-standard auto insurance. Almost half of Tri-State's late paying customers -- 47% -- were able to make an accident claim against their policies because, after getting into an auto accident, they could still pay their overdue insurance premium during the grace period. In effect, Tri-State was forced to “buy” 47% of their claims as a result of Gainsco’s change in Tri-State’s renewal procedures from 1 month to 6 months with a grace period for payment.

**The Company Closes on the Tri-State Acquisition**

41. On January 7, 2000, the Company issued a press release announcing that it had acquired Tri-State. According to Anderson, Gainsco planned “to integrate all processing of Tri-State’s business with Lalande’s underwriting and claims systems to maximize service and cost efficiency. As part of this process, it is anticipated that Tri-State’s agents will be converted onto Lalande’s developing internet-based, real-time, policy integrated business line.” Gainsco stock closed on January 7, 2000 at $6.12, up $0.25 from the January 6, 2000 close of $5.87, on higher than normal trading volume. The Company recognized approximately $5.4 million in good will on the Tri-State acquisition, according to the Company’s later SEC filings.

42. The January 7, 2000 press release was false and misleading for the reasons stated above in paragraphs 35-37, because the press release failed to reveal that Gainsco intended to make changes in Tri-State’s underwriting and claims procedures that would have a negative effect on Tri-State’s loss ratio and profitability. According to a February 19, 2001 letter written on Herbert Hill’s behalf by his attorney to defendant Anderson, Hill had discussed the likely problems with MacRae
Johnston (the “Mac” referred to in the letter) before the January 7, 2000 acquisition of Tri-State. (MacRae Johnston was the head of Lalande and reported to Anderson).

43. Tri-State began losing money almost immediately after being acquired. A witness (“W-2”) employed at an executive level at Tri-State before the acquisition and at relevant times thereafter, has described the reasons why Tri-State suffered a dramatic loss in profitability during 2000. Based on W-2’s senior position with Tri-State, W-2 possesses first hand knowledge of all aspects of Tri-State’s operations during the class period. According to W-2, one of the first tasks Gainsco instructed Tri-State management to undertake after the acquisition was to reissue all of the existing policies written by Tri-State’s MCIC subsidiary as policies of another Gainsco subsidiary, MGA. This procedure had also been followed after Gainsco’s earlier acquisition of Lalande. According to W-2, the transition of MCIC’s business on to Gainsco’s “book” was extremely cumbersome and time consuming. Tri-State personnel had to contact each MCIC policyholder, explain the change in policy that was proposed and obtain consent to reissue the policies. W-2 states that, after obtaining policy-holder consent, Tri-State personnel had to “manually” reissue each MCIC policy, and then manually enter the new policy information on the new computer system. W-2 stated that this effort was highly labor intensive and that “all of Tri-State personnel’s time during the first year after the acquisition was spent moving MCIC’s book of business to MGA.”

44. W-2 further explained that Tri-State’s loss ratio increased materially when it adopted Gainsco’s more lenient or “looser” claims and underwriting procedures. W-2 stated that the change of Tri-State and MCIC’s policies on to Gainsco/MGA’s “book” involved imposing on the MCIC.

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2 Publicly available sources do not reveal the number of policies MCIC had in force at the time of the acquisition. However, Gainsco’s November 1999 press release announcing the deal stated that Tri-State had $16 million in annual premium.
policies, Gainsco’s more forgiving claims and policy administration procedures. W-2 stated that these changes caused the “loss ratio” (that is, ratio of claims paid to premiums earned) on the former MCIC policies to “go crazy.” W-2 confirmed what the previously quoted 1999 A.M. Best rating for MCIC stated: that MCIC, prior to the Gainsco acquisition, maintained strict underwriting and claims procedures. One example of this was MCIC’s refusal to allow any grace period for late premium payments. W-2 stated that before the acquisition, Tri-State allowed no grace period on late premium payments; Tri-State policies expired if the premium was not paid by the due date. Gainsco implemented more forgiving premium payment guidelines, allowing for a lengthy grace period during which a late premium could be paid without the policy being cancelled. According to W-2 (and consistent with common sense), this new looser procedure caused the loss ratio to increase substantially on the book of business MCIC brought to Gainsco. According to W-2, the first thing an insured does if he has an auto accident after a premium is due but before the grace period expires is pay his overdue insurance premium. W-2 stated that this is one example of how changes the defendants made in policy and claims administration procedures for MCIC policies negatively affected the post-acquisition loss ratio on MCIC policies.

45. W-2 further stated that, after buying Tri-State, Gainsco raised premium rates significantly on renewals of Tri-State/MCIC policies. W-2 stated, based on his/her observation and feedback he/she was receiving from his/her customer base, that a substantial portion of the Tri-State/MCIC customer base subjected to these rate increases did not renew their policies with Tri-State. W-2 states that the loss of business due to premium increases caused Tri-State’s profits to decline substantially after the Gainsco acquisition.
The March 2000 Press Releases

46. Gainsco issued public statements in early March 2000, including a conference call on or about March 1, 2000, announcing its financial results for the fourth quarter of 1999. In these statements, Gainsco management continued to tout the Company’s move into the personal automobile insurance market and its acquisition of Tri-State. Defendant Coots was quoted in a March 2, 2000 article entitled “Gainsco Fourth-Quarter Net Soars,” as stating that “Tri-State is operating in a much less-intense environment. That’s why we like it.” After these press statements, Gainsco stock closed on March 3, 2000 at $5.50.

47. The Statements made by the defendants about Gainsco’s financial health were materially false and misleading because they failed to disclose, as revealed by W-2, that the then ongoing transition of MCIC’s policy on to Gainsco’s “book” involved a loosening of MCIC’s previously strict underwriting and claims standards, and that this change could be expected to adversely affect the loss ratio on, and thus the intrinsic value of, the policies Gainsco acquired from MCIC. This adverse affect was exacerbated by a loss of policy renewal business due to Gainsco’s imposition of sharply increased renewal premium requirements.

The Falsity of the 1999 Annual Report

48. On March 29, 2000, defendants caused the Company to file with the SEC its 1999 Annual Report. This document, signed by defendants Anderson and Coots, described the Tri-State acquisition, and attached as Exhibit 10.14 the Stock Purchase Agreement pursuant to which Gainsco purchased Tri-State, Ltd. from Herbert A. Hill and Alan E. Heidt (“the Tri-State Stock Purchase Agreement”). The Tri-State Stock Purchase Agreement provided for a base purchase price of $6,000,000 cash at closing. Section 2.3 provided that, in addition to the $6,000,000 payment, sellers
Hill and Heidt were entitled to $1,500,000 in “Integration Consideration” based upon a successful integration of Tri-State’s business into Gainsco’s. The stock purchase agreement contemplated that Tri-State’s operations would become consolidated with Gainsco’s operations in Fort Worth and with and Lalande’s operations in Florida. The $1.5 million in “integration consideration” was to be paid upon the completion of this integration process. The Agreement provided that sellers Hill and Heidt could receive additional “earnout consideration” of up to $3,000,000 for achieving certain defined levels of earnings based on operation attributable to the acquired companies. Finally, Hill and Heidt were eligible for additional consideration in the form of retroactive payments, based on Tri-State maintaining a favorable loss ratio on policies attributable to the acquired companies.

49. The 1999 Annual report made the following statement regarding the Company’s acquisition of Tri-State:

Tri-State Acquisition. On January 7, 2000, the Company acquired Tri-State, Ltd. (“Tri-State”), an insurance operation specializing in underwriting, servicing and claims handling of nonstandard personal auto insurance in Minnesota, North Dakota and South Dakota. Tri-State owns and operates a managing general agency, a motor vehicle driving records service company and an insurance subsidiary, MCIC. Tri-State was incorporated in 1980 and currently markets nonstandard personal auto insurance through over 320 retail agencies in its three key states and commercial automobile insurance in four states. The Company plans for Tri-State to continue to operate at its current locations to develop personal and commercial lines of business. The purchase price consideration consisted of $6,000,000 in cash at closing, plus additional payments of up to $5,500,000 in cash over the next several years, contingent on conversion of business to the Company, meeting specific profitability targets and Tri-State’s 1999 year-end book value. Tri-State’s insurance subsidiary, MCIC, had approximately $3,000,000 of policyholders’ surplus at December 31, 1999.

50. Gainsco’s 1999 Annual Report was materially false and misleading because it failed to disclose in the Management Discussion and Analysis section, or elsewhere, that Gainsco had sustained, and would continue to sustain, losses of renewal business due to its sharply increased
premium requirements. Nor did the 1999 Annual Report disclose that Gainsco was changing the strict underwriting and claims procedures previously used by MCIC, or that such changes could be expected to negatively affect the loss ratio on policies being acquired as a result of the Tri-State acquisition, as stated by W-2.

51. According to a witness who was the Vice-President of Gainsco’s Actuarial Services department (“W-3”), “[v]ery shortly after the Tri-State acquisition, it was obvious that there were problems at that entity” and that it was “not profitable.” W-3 was employed by Gainsco throughout the Class Period and until the summer of 2002, and reported directly to defendant Anderson. According to W-3, Lalande’s Lambda computer system could not accommodate the one-month policies that Tri-State had been writing and Tri-State’s conversion to writing six-month policies was a factor in causing Tri-State’s business to decline.

52. W-3 stated that the financial information coming from Tri-State showed no profitability shortly after the acquisition. According to W-3, Tri-State prepared “canned” reports showing premiums collected and losses set forth in an “accounting format.” W-3 confirmed that W-3 prepared quarterly, and sometimes monthly, financial reports on the results of Gainsco’s operations, including those of Tri-State, for defendant Anderson. After preparing the quarterly report, W-3 gave it directly to Anderson. The report included the quarter’s financial results for each of Gainsco’s business segments. The part of the report relating to Tri-State was called simply, “Tri-State Results.” According to W-3, the financial reports that W-3 prepared showed that almost immediately after Tri-State’s January 2000 acquisition, it was not profitable. W-3 stated that Tri-State’s first quarter results—and Tri-State’s results for all subsequent quarters during the Class Period—showed only losses and no profits.
53. According to W-3, Coots prepared Gainsco's quarterly and annual financial reports that were filed with the SEC and that defendant Coots used W-3's quarterly financial reports to set Gainsco's claims reserves.

54. Gainsco's glossy version of the 1999 Annual Report, which was sent to Gainsco shareholders in or about March, 2000, included a printed statement to shareholders, signed by Anderson. In this statement, Anderson touts the Tri-State acquisition:

On the strength of the Lalande conversion, we launched our strategy to expand geographically beyond the state of Florida with the acquisition of Tri-State, Ltd., which was announced November 1999 and completed in early January 2000. Tri-State produces approximately $12 million annually in nonstandard personal automobile premiums. This business is targeted to transition onto our book and to give us a profitable 10 percent market share in Tri-State's targeted markets in the states of Minnesota, South Dakota and North Dakota. We are delighted to welcome the founders and owners of Tri-State, Herb Hill and Al Heidt, to GAINSCO as a result of this acquisition. During 2000, Herb, Al and our operating teams will be working to integrate the operating techniques of Tri-State and Lalande to achieve one common, systemic approach to the business. Additionally, we expect to expand geographically to additional states with which Herb and Al are familiar.

55. During the week after filing of the 1999 Annual Report (March 30, 2000 - April 6, 2000), Gainsco stock traded in the range of $5.93 - $6.00 per share.

56. The 1999 Annual Report and the accompanying statement to shareholders by defendant Anderson were materially false and misleading because Gainsco failed to disclose, as revealed by W-2 and W-3, that the then ongoing transition of MCIC's policy on to Gainsco's "book" involved a loss of renewal business as noted above, and a loosening of MCIC's previously strict underwriting and claims standards, and that these changes were certain to have an adverse effect on the loss ratio and thus the intrinsic value of the policies Gainsco acquired from MCIC. The 1999
Annual Report also failed to disclose that Tri-State was already losing money, as Anderson then knew or recklessly disregarded after receiving W-3’s quarterly report.

**The May 11, 2000 Press Release and First Quarter 2000 10-Q**

57. According to Gainsco itself, in its civil complaint against Herbert A. Hill for a declaratory judgment filed in Texas state court on June 6, 2001, Tri-State began losing money during the first half of 2000. *Gainsco, Inc. v. Herbert A. Hill*, No. 01-4660E (Dallas County, Texas, 101st Judicial District). Gainsco’s complaint against Hill contained the following judicial admission regarding Tri-State’s financial performance in 2000:

19. Tri-State first began using Lalande’s Lamda system on a fully integrated basis around July 2000. *Before this time, however, Tri-State had begun to lose profitability.* After using the Lamda system, *Tri-State continued to lose profitability.* *Throughout 2000, Gainsco’s and Lalande’s officers conducted regular teleconferences with Mr. Hill and held several in-person meetings with Mr. Hill and other Tri-State officers to address Tri-State’s declining profitability.*

20. Following Gainsco’s acquisition of Tri-State, Mr. Hill -- without Gainsco’s approval -- filed with the relevant state agencies for policy rate decreases for Tri-State’s customers, thereby contributing to *Tri-State’s declining profitability.*

21. * * * * On information and belief, Mr. Hill has disrupted Gainsco’s efforts to consolidate the operations of Gainsco, Lalande and Tri-State and has thereby contributed substantially to *Tri-State’s poor financial performance.*


58. As explained below, defendants concealed these problems at Tri-State from the investing public until at least August 23, 2001.

59. On May 11, 2000, the Company issued a press release announcing its financial results for the first quarter of 2000. The statement announced a net loss for the first quarter of 2000 of $0.1 million, or $0.02 per share, as compared to net income for the first quarter 1999 of $2.1 million.
Defendant Anderson was quoted in the press release as stating that the loss was attributable mainly to tax losses realized on sold investments as the company carried out a previously announced redeployment of assets, and to claims activity resulting from damaging late-March storms in Texas. Anderson was quoted as stating that the Company was raising insurance rates to offset these losses:

Over the past six months, we have been selectively raising our rate levels to reinforce our future underwriting margin and to better absorb events such as occurred in the first quarter. The process of raising rates has been accelerated since the end of last year, and we have implemented an overall average rate increase of eight percent since the 1999 fourth quarter across all commercial and personal lines. These rate increases should benefit future underwriting results as they continue to earn into our revenue base during the upcoming months.

60. The May 11, 2000 press release further quoted Anderson as stating that "the Tri-State, Ltd. acquisition was closed and the year-long integration and conversion process has now been started." Though dated May 11th, this press release became public on May 12, 2000.

61. On May 12, 2000, the Company filed with the SEC its Form 10-Q for the quarterly period ended March 31, 2000 ("the 2000 first quarter Form 10-Q"). This document, which was signed by defendant Coots, reflected a net loss of $134,468 for the quarter, led by a very large increase in claims and claims adjustment expenses. The 2000 first quarter Form 10-Q reflected $21,879,148 in goodwill, which included approximately $5 million in goodwill attributable to the acquisition of Tri-State, and made the following statement regarding the valuation of goodwill:

Goodwill, which represents the excess of purchase price over fair value of net assets acquired, is amortized on a straight-line basis over 25 years which is the expected period to be benefitted. The Company will periodically review the recoverability of goodwill based on an assessment of undiscounted cash flows of future operations to ensure it is appropriately valued.

62. Gainsco took no write down in the 2000 first quarter 10-Q for any portion of the goodwill recognized on the Tri-State acquisition. The 2000 first quarter Form 10-Q reflected the
Company's growing movement into the Personal Lines business, reflecting gross premiums written for the quarter were split 64% to commercial lines and 36% to personal lines. Additionally, the 2000 first quarter Form 10-Q contained a representation which stated:

In the opinion of management, the accompanying consolidated financial statements contain all adjustments, consisting only of normal recurring adjustments, necessary to present fairly the financial position of GAINSCO, INC. and subsidiaries (the "Company") as of March 31, 2000, the results of operations and the statements of cash flows for the three months ended March 31, 2000 . . . on the basis of generally accepted accounting principles.

63. The price of Gainsco stock fell in the days after release of the first quarter 2000 results, from a closing price of $5.87 on May 12, 2000 to a closing price of $5.50 on May 15, 2000.

64. The defendants' statements in the May 11, 2000 press release and the 2000 first quarter Form 10-Q were materially false and misleading because they failed to disclose, as revealed by W-2 and W-3: (i) that the then ongoing transition of MCIC's policy on to Gainsco's "book" was involving a loosening of MCIC's previously strict underwriting and claims standards, and that this change was negatively affecting the loss ratio on, and thus the intrinsic value of, the policies Gainsco acquired from MCIC; (ii) that a substantial portion of the Tri-State/MCIC customers subjected to the rate increases described by defendant Anderson in the May 11th press release were declining to renew their policies with Tri-State; (iii) that Tri-State had become unprofitable even in the first quarter of 2000; and (iv) that, as Gainsco admitted in its complaint against Hill, Tri-State "had begun to lose profitability" before July 2000. Gainsco, Inc. v. Hill, para. 19.

65. Moreover, according to a former Gainsco employee working in the Company's accounts receivable and claims department in Ft. Worth from approximately 1992 to December 2001 (W-4), defendant Coots received regular monthly reports on Tri-State's profits and losses. These
financial reports were prepared by Tri-State and sent to Gainsco’s accounting department to Lori McKnight. She in turn gave these reports to Coots and Anderson, and reported on Tri-State’s and the Company’s other divisions to Coots. Coots reported directly to Anderson. These were in addition to the quarterly financial reports prepared by W-3 and given directly to Anderson, as set forth above.

66. In addition, the first quarter financial statements contained within the 2000 first quarter Form 10-Q were materially false and misleading because they failed to recognize the worthlessness of at least a portion of the approximately $5 million of goodwill attributable to the Tri-State acquisition, via a charge to earnings as required by GAAP.

67. GAAP (APB Opinion No. 17, Intangible Assets) requires a continual monitoring of goodwill to ascertain whether an impairment has occurred. In addition, GAAP (FASB Statement No. 121, Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to Be Disposed Of) states that “an entity shall review long-lived assets and certain identifiable intangibles to be held and used for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable” and that the entity “shall recognize an impairment loss” when the cost of the long-lived assets or identifiable intangibles are not recoverable. Based upon this GAAP, the Company’s 2000 first quarter financial statements should have reflected the recognition of an impairment loss of the goodwill for Tri-State. Defendants failed to comply with this requirement. Further, defendants failed to comply with the guidance set forth in GAAP (APB Opinion No. 28) which states that “the Board encourages management to provide commentary relating to the effects of significant events upon the interim financial results.”
68. In this regard, by May 12, 2000 Tri-State was losing profitability, to wit, Tri-State’s loss ratio had “gone crazy” as a result of post-acquisition changes in Tri-State’s historically strict claims and underwriting procedures and there was a larger than normal rate of non-renewal of Tri-State policies as a result of rate increases. These factors, negatively affecting Tri-State’s current and future profitability, were known to or were recklessly disregarded by defendants as of the filing of the 2000 first quarter 10-Q, and required the Company to write off at least a substantial portion of the goodwill for Tri-State which had been recorded on January 7, 2000 because the carrying value of such goodwill was not recoverable through future operations.

69. In the summer of 2000, Herbert Hill, Tri-State’s President, met with Joe Pitts, a Gainsco Vice-President for Actuarial Services at Tri-State’s Spearfish, South Dakota office. Hill discussed Tri-State’s rate changes and renewal procedures with Pitt and the adverse effect they had on the claims ratio, according to the February 19, 2001 letter Hill directed his attorney to send to defendant Anderson. (Ex. A hereto at 1).

The Falsity of the August 10, 2000 Press Release & the 2nd Quarter 2000 Form 10-Q

70. By Gainsco’s own admission in its complaint against Hill, Tri-State had begun losing profitability before July 2000 and continued to lose money thereafter. According to Gainsco’s complaint, during this time, Tri-State was not profitable and Gainsco was having management disputes with Hill. Gainsco v. Hill, No. 01-04660, ¶¶ 20-21. Gainsco’s public statements during all of 2000 and thereafter until the write-down of Tri-State’s good-will on August 14, 2001, say nothing about the significant problems Gainsco was having with losses at Tri-State.

71. On August 10, 2000, the Company issued a press release announcing a loss for the six months ended June 30, 2000 of $1.2 million as compared to net income for the first six months
of 1999 of $4.0 million. This press release quoted defendant Anderson as stating the following with respect to the reported loss: "Our actions demonstrate, however, our resolve to maintain a strong, productive, disciplined balance sheet as our top priority, even, when necessary, at the expense of current income." Anderson was further quoted as stating that the Company "continues to be aggressive in implementing rate increases in the marketplace to achieve our underwriting profit target[.] . . . [W]e have implemented an 8% increase in our nonstandard private passenger automobile base rates. These rate increases will steadily work their way into our business results as future new and renewal policies are written and earn out at the higher rate. Additional rate increases are planned in the remainder of the year as well."

72. The August 10th press release was false and misleading because it failed to disclose, as revealed by W-2 and W-3: (i) that the then ongoing transition of MCIC's policy on to Gainsco's "book" was involving a loosening of MCIC's previously strict underwriting and claims standards, and that this change was negatively affecting the loss ratio on, and thus the intrinsic value of, the auto insurance policies Gainsco acquired from MCIC. and (ii) that a substantial portion of the Tri-State/MCIC customers subjected to the rate increases described by defendant Anderson in the May 11th press release were declining to renew their policies with Tri-State; (iii) that Tri-State had become unprofitable even in the first quarter of 2000 and thereafter; and (iv) that, as Gainsco itself later admitted in its complaint against Hill, Tri-State was losing money.

73. Defendants Anderson and Coots also held a conference call with analysts on August 11, 2000. Although Anderson reported a $1.1 million loss for the six months ended June 30, 2000, This press release did not become publicly available until after the stock market closed on August 10th.
he told analysts the Company was determined to maintain a strong balance sheet. Anderson also told analysts he believed the Company was setting the stage for better financial results based on rate increases on policy holders and repositioning of the Company’s investment portfolio. Referring to the recent Lalande and Tri-State acquisitions, Anderson said: “[A]nd finally, we believe that the types of changes we are making with regard to business diversification, talent infusion, automation, etc., continue to build the upside potential of our company.” (Emphasis added).

74. Anderson, with Coots on the call with him, made no disclosure to analysts of the financial losses at Tri-State that the Company had been experiencing since the first quarter of 2000. (Coots reported on the quarter’s financial results). On the contrary, Anderson and Coots sought to conceal those problems from the marketplace because it would have required a recognition of the impairment to Tri-State’s goodwill (and a further erosion of Gainsco’s balance sheet), as well as the failure of the Company’s recently announced and expensive plan of “business diversification.” Instead of disclosing the Tri-State problems, Anderson touted Gainsco’s “business diversification” as a factor that would contribute to future profitability.

75. On August 11, 2000, the Company filed its Form 10-Q for the quarterly period ended June 30, 2000 with the SEC (“the 2000 second quarter Form 10-Q”). This document was signed by Coots and reported financial results substantially identical to the financial information reported in the August 10, 2000 press release. The 2000 second quarter Form 10-Q contained no mention of the losses Gainsco was sustaining in its Tri-State subsidiary or of the problems that had developed between Gainsco management and Tri-State management. Moreover, despite the known lack of profitability of Tri-State during the period prior to August 2000, the Company failed to write down and thus recognize the impairment of a substantial part of the approximately $5 million in goodwill.
it had recognized from the Tri-State acquisition. In explaining its method of valuing goodwill, the Company's Second Quarter 2000 Form 10-Q stated:

Goodwill, which represents the excess of purchase price over fair value of net assets acquired, is amortized on a straight-line basis over 25 years which is the expected period to be benefitted. The Company will periodically review the recoverability of goodwill based on an assessment of undiscounted cash flows of future operations to ensure it is appropriately valued.

76. The 2000 second quarter Form 10-Q further revealed that the Company made an additional payment to the Sellers of Tri-State of $1,148,454 in July 2000. The 10-Q stated that this payment and possible additional future payments were “based on a conversion goal and specific profitability targets.” While acknowledging this additional payment, and stating that it was made based on achievement of a conversion goal and specific profitability targets, the Company failed to reveal that Tri-State had actually lost (and was continuing to lose) profitability in the months prior to August 2000, as is explained above. The 2000 second quarter Form 10-Q contained a representation which stated:

In the opinion of management, the accompanying consolidated financial statements contain all adjustments, consisting only of normal recurring adjustments, necessary to present fairly the financial position of GAINSCO, INC. and subsidiaries (the “Company”) as of June 30, 2000, the results of operations and the statements of cash flows for the three months ended June 30, 2000 . . . on the basis of generally accepted accounting principles.

77. The defendants' statements in the August 10, 2000 press release and the 2000 second first quarter Form 10-Q were materially false and misleading because they failed to disclose, as revealed by W-2 and W-3: (i) that the then ongoing transition of MCIC's policy on to Gainsco's “book” had involved a loosening of MCIC's previously strict underwriting and claims standards, and that this change was negatively affecting the loss ratio on, and thus the intrinsic value of, the policies
Gainsco acquired from MCIC; (ii) that a substantial portion of the Tri-State/MCIC customers subjected to the rate increases described by defendant Anderson in the August 10th press release were declining to renew their policies with Tri-State (according to the February 19, 2001 letter from Hill’s attorney (Ex. A hereto), only $2.5 million of $6.7 million in insurance business would renew their policies with Tri-State); (iii) that Tri-State had been losing money since the first quarter of 2000, and (iv) that Gainsco was having difficulty working with Tri-State’s President Herb Hill.

78. In addition, the financial statements which were contained within the 2000 second quarter Form 10-Q were materially false and misleading because they failed to recognize the worthlessness of approximately $5 million of goodwill recognized in the Tri-State acquisition, via a charge to earnings as required by GAAP. GAAP (APB Opinion No. 17, Intangible Assets) requires a continual monitoring of goodwill to ascertain whether an impairment has occurred. In addition, GAAP (FASB Statement No. 121, Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to Be Disposed Of) states that “an entity shall review long-lived assets and certain identifiable intangibles to be held and used for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable” and that the entity “shall recognize an impairment loss” when the cost of the long-lived assets or identifiable intangibles are not recoverable.

79. Based upon this GAAP, defendants were required to cause the Company’s 2000 second quarter financial statements to reflect the recognition of an impairment loss of approximately $5 million. Defendants failed to comply with this requirement. Further, defendants failed to comply with the guidance set forth in GAAP (APB Opinion No. 28) which states that “the Board encourages
management to provide commentary relating to the effects of significant events upon the interim financial results."

80. In this regard, by August 11, 2000, Gainsco, by its own judicial admission, knew that Tri-State had been losing profitability for several months. Defendants also knew or recklessly failed to know, as revealed by W-2, that Tri-State’s loss ratio had "gone crazy" as a result of post-acquisition changes in Tri-State’s historically strict claims and underwriting procedures and that there was a larger than normal rate of non-renewal of Tri-State policies as a result of rate increases. These factors, negatively affecting Tri-State’s current and future profitability, were known to defendants as of the filing of the second quarter 10-Q, and required the Company to write off the goodwill for Tri-State which had been recorded on January 7, 2000.

81. Additionally, the 2000 second quarter Form 10-Q’s statement that "payments of $1,148,454 [were] made in July, 2000 [to the former owners of Tri State] . . . based on a conversion goal and specific profitability targets." This statement was materially false and misleading because it lulled the investment community into believing that Tri-State was profitable (i.e. that "profitability targets" had been achieved), when, by Gainsco’s own admission, this was not true.

**The Falsity of the September 8, 2000 Press Release**

82. Gainsco issued a press release on September 8, 2000 entitled "Gainsco CEO Affirms Positive Outlook for Company at September 7 Annual Shareholder Meeting." In this press release, defendant Anderson stated that Gainsco was "building on a strong financial foundation that begins with a strong balance sheet." Anderson attributed the losses in the first half of 2000 to "increased severity in the commercial automobile business and high losses on Personal Injury Protection (PIP) coverage in the nonstandard private passenger automobile business." Anderson further stated that
the Company was “targeting significant improvements in loss ratios in 2001 compared with the first half of 2000, driven primarily by overall price increases of 17% for the commercial insurance business and 14% for the nonstandard private passenger automobile business.”

83. Defendant Anderson’s optimistic statements in this press release were false and misleading because he failed to reveal what the Company subsequently admitted: that prior to July 2000 and thereafter, Gainsco’s newly acquired Tri-State subsidiary was consistently losing money, and that the Company was having serious problems with Tri-State’s management over whether and how to rectify Tri-State’s persistent lack of profitability. (In addition, according to W-3, Anderson knew from quarterly financial reports he received from W-3 that Tri-State was unprofitable beginning in the first quarter of 2000, right after the January 2000 acquisition). The statement further failed to reveal, as stated by W-2, that the premium increases touted by Anderson were resulting in a large rate of customer non-renewal within the Tri-State subsidiary. The claim that the Company was maintaining a “strong balance sheet” was false, in that the Company knew or was reckless in failing to know, that it was carrying as a current asset approximately $5.4 million in worthless goodwill from the unprofitable Tri-State subsidiary.

The Falsity of Statements Announcing Gainsco’s Third Quarter 2000 Financial Results

84. On November 9, 2000, the Company issued a press release announcing a loss of $7.6 million and $8.8 million for the three and nine month period ended September 30, 2000, respectively. In addition, it quoted defendant Anderson as stating that the Company was resolved to “maintain a strong disciplined, balance sheet.” The press release further announced the Company’s decision to exit a majority of its existing commercial trucking business. Anderson stated that this decision, combined with other operational actions, “should enable the profits being
generated by our successful ongoing commercial lines, personal lines and specialty lines businesses to increasingly show through in future periods as the unprofitable trucking book is eliminated."

85. The statements in the November 9, 2000 press release were false and misleading because Anderson’s claim that the Company’s personal lines businesses were successful failed to reveal that as of November 9, 2000, Gainsco’s Tri-State subsidiary had experienced months of losses, and that the Company was having serious problems with Tri-State’s management over whether and how to rectify Tri-State’s persistent lack of profitability. The claim that the Company was maintaining a “strong balance sheet” was false--the Company knew or recklessly disregarded that it was carrying as a current asset approximately $5 million in worthless goodwill from the unprofitable Tri-State subsidiary.

86. Anderson and Coots held an analyst conference call on November 14, 2000 regarding third quarter 2000 financial results. Anderson stated in substance that the Company would reduce its underwriting business by 15% by exiting the commercial trucking business. Anderson stated that “85% of the business, ex trucking, is performing very well at this juncture in the aggregate.” According to Anderson, “[i]t is on this reduced, diversified and profitable base that we plan to build our insurance operation.” Coots again reported on financial results for the quarter and on the Company’s underwriting business. Anderson and Coots, however, said nothing about the decline in profitability at Tri-State, a material component of Gainsco’s diversification strategy. With the decision to abandon its commercial trucking line of insurance, Gainsco was even more dependent on the profitability of its Personal Lines Division, which included Tri-State.

87. On November 14, 2000, the Company filed with the SEC its Form 10-Q for the quarterly period ended September 30, 2000 (“the 2000 third quarter Form 10-Q”), which was signed
by defendant Coots and which reported financial information substantially identical to that reported
in the November 9, 2000 press release. The 2000 third quarter Form 10-Q reflected as a current asset
of Gainsco $23,018,6432 in goodwill; subsequent filings reveal that the Company was then carrying
approximately $5,068,283 in goodwill attributable to the acquisition of Tri-State.

88. The 10-Q assured investors that the Company “periodically reviews the recoverability
of goodwill based on an assessment of undiscounted cash flows of future operations to ensure it is
appropriately valued.” This assurance notwithstanding, and despite the months of losses and other
problems the Company was having with its Tri-State subsidiary, the Company failed to record in its
2000 third quarter Form 10-Q, any impairment of the $5 million in goodwill attributable to the Tri-
State acquisition. In addition, like the second quarter 2000 Form 10-Q, the third quarter 2000 Form
10-Q stated that “payments of $1,148,454 [were] made in July, 2000 [to the former owners of Tri-
State] . . . based on a conversion goal and specific profitability targets.”

89. The 2000 third quarter Form 10-Q was false and misleading, in that it failed reveal
to the investing public that Gainsco’s Tri-State subsidiary had been losing money throughout 2000,
that the value of the policies Tri-State had brought to Gainsco was impaired based on the changes
Gainsco had made to Tri-State’s renewal premium structure and historically strict claims and
underwriting procedures, and that Gainsco was having significant problems working with Tri-State
management. The Company also failed to record any impairment to the approximately $5 million
in goodwill the Company was carrying attributable to the Tri-State acquisition, when the Company,
and defendant Coots (who signed the 10-Q) knew, or was reckless in failing to ascertain, the above
facts about Tri-State’s poor performance.
90. Following release of Gainsco’s third quarter earnings, on November 14, 2000, A.M. Best downgraded the pooled rating of Gainsco’s insurance operations from an “A (excellent)” to an “A- (excellent).”

91. Beginning in November 2000, W-3 met in person with Anderson at Gainsco’s offices in Ft. Worth and discussed Tri-State’s poor financial results. According to W-3, he/she was concerned that defendant Anderson was not telling Gainsco’s board of directors the truth about these problems. *During this conversation, Anderson told W-3 that Anderson “could not afford politically to go before the Gainsco board and tell them the truth about Tri-State’s operating results.”* Anderson made this same statement to W-3 on several occasions beginning in November 2000 and continuing in early 2001 and throughout 2001.

92. According to W-3, when Anderson saw the results for Tri-State were bad, “*he just hid the results in the overall numbers.*” Presentation materials for the board of directors were not uniform each quarter. Tri-State financial numbers were “buried in the Lalande or overall Gainsco numbers.” According to W-3, when some board members asked questions about the Tri-State investment, Anderson would often lie to the board outright. W-3 also stated that “Anderson was specifically instructing me not to show the Tri-State numbers in the board materials, but Anderson also wanted me to paint the claims reserves to the board as better than they were.” According to W-3, Anderson wanted W-3 to tell the board that W-3 had a “high degree of confidence” about the reserves, even though this was not true.
Tri-State President Herbert Hill, Through Counsel, Describes Tri-State's Financial Woes to Defendant Anderson

93. On or about February 19, 2001, Anderson received a letter sent to him by facsimile and regular mail by Patrick Durick, attorney for Herbert Hill ("the February 19, 2001 letter"). Herbert Hill had sold Tri-State to Gainsco, and was, as of February, 2001 serving as President of Gainsco’s Tri-State subsidiary. This letter sets out in detail the “poor results” Tri-State experienced in calendar year 2000 and provides additional details regarding the financial problems at Tri-State. Among other problems, the letter discussed adverse claims activity resulting from Gainsco’s change in the policy renewal term (from monthly to semi-annually) for Tri-State’s policies. The same problem was described by W-2.

94. The February 19, 2001 letter states that Hill had discussed this issue with McRae Johnston prior to closing on the acquisition and with another Gainsco executive in Summer 2000. The February 19, 2001 letter explains that historically, Tri-State had written its non-standard automobile policies on a monthly basis. Under a one-month policy, if a premium is not paid, the policy lapses. Gainsco had Tri-State change to six-month policies. As the letter explains, “[a]s a result of six-month policies, Tri-State now has a grace period in its billing and Tri-State ends up buying claims simply because an agent can advise the insured to make their late payment and Tri-State will pay the claim.” According to the letter, Hill had explained “many times” that 25% of Tri-State’s business lapses every month; of these lapping policies, 47% of all claims arose from people who paid premiums during the grace period. The letter additionally stated that many Tri-State customers had refused to accept double-digit rate increases instituted in the fourth quarter of 2000. In this regard, the letter stated that, due to rate increases it was doubtful that Tri-State would end up
with more than $2,500,000 of the potential $6,700,000 in renewal business. The letter stated that Tri-State was showing a $1,000,000 drop in net income from 1999 to 2000, and that "Tri-State will be losing $104,000 per month starting April 1, 2001."

95. Between February 20, 2001 and April 19, 2001, Anderson met with Hill in Denver, Colorado to discuss the lack of profitability and other problems at Tri-State described in Hill's February 19, 2001 letter. (See letter of May 18, 2001 from Hill's attorney to Anderson, attached hereto as Exhibit B).

96. On February 27, 2001, defendants made a partial disclosure of the financial straits that had developed in 2000. On that day, defendants caused the Company to issue a press release announcing a loss of $10.9 million and $20.3 million for the three and twelve month period ended December 31, 2000, respectively. While setting out the year's losses, the press release does not disclose that these losses were partially attributable to the poor performance of the Tri-State subsidiary. The February 27, 2001 press release does not reveal Tri-State's loss of profitability, nor did the press release even hint that Gainsco was experiencing management problems with the Tri-State subsidiary. Rather, the press release attributed the poor performance primarily to severe claims experience in the Company's commercial trucking book, and stated that the goal for 2001 was to mitigate the trucking problem and "build upon the underlying profitability and potential of our ongoing businesses." The press release said nothing about the losses in its non-standard auto business at Tri-State. The Company's stock price dropped 51% to a 52-week low of $1.70.

97. On February 28, 2001, Anderson and Coots held a conference call with analysts. Anderson told the analysts that Gainsco had borrowed $6 million from GMSP and Robert Stallings, now a director of the Company. Anderson was asked about the terms of the $6 million loan and why
GMSP -- a majority shareholder of Gainsco -- was allowed to lend the money on highly preferential terms. GMSP's warrants were repriced by reducing the strike price to two-thirds of the adjusted tangible book value of Gainsco. Several analysts were furious that Gainsco borrowed the $6 million from a related party on preferential terms. One analyst told Anderson that this was embarrassing to him personally and to the board of directors. Significantly, neither Anderson nor Coots said anything about the problems at Tri-State, even though Anderson again repeated that he was continuing to seek to improve shareholder value.

**The Falsity of Gainsco's Financial Reports for Year-End 2000**

98. On April 2, 2001, the Company filed its Form 10-K for the year ended December 31, 2000 with the SEC (“the 2000 Form 10-K”). This document, signed by defendants Anderson and Coots, reported a loss of $10.7 million and $19.5 million for the three and twelve month period ended December 31, 2000. The 2000 Form 10-K under the headings “Recent Developments” and in the MD&A portion contains the same description of the Tri-State acquisition that had appeared in all of the Company’s filings for 2000, without disclosure of the persistent losses Gainsco had sustained at the Tri-State subsidiary throughout 2000. The MD&A portion of the 2000 Form 10-K attributed the year’s losses primarily to significant unfavorable claims experience in the commercial auto liability line of business.

99. The Company’s balance sheet for 2000 reflected as a current asset $22,797,358 in goodwill, $5.4 million of which was attributable to the Tri-State acquisition. The financial notes stated that the goodwill attributable to the Tri-State acquisition was being amortized on a straight line basis over 25 years. The financial notes also provided pro forma unaudited financial results for Tri-State for 1998 and 1999, assuming the purchase of Tri-State had consummated on January 1,
1998; these pro forma results reflected net income for Tri-State in 1999 of $8,310,000. While the 2000 Form 10-K provided shareholders with this required pro forma information, it failed to reveal (as stated in the February 19, 2000 letter) that Tri-State’s actual net income for 2000 was $1,000,000 less than 1999, according to Hill (Ex. A hereto). The 2000 Form 10-K also revealed that, in addition to the $7,148,454 the Company had previously paid for Tri-State, the Company paid $1,566,081 in January of 2001 for “the conversion goal.” As had all prior filings during the class period, the Notes to the Consolidated Financial Statements explained that “the Company periodically reviews the recoverability of goodwill based on an assessment of undiscounted cash flows of future operations to ensure it is appropriately valued.” This assurance notwithstanding, and despite the known mounting loss of renewal business and the year of losses and other problems the Company was having with Tri-State -- assuring that the carrying value of Tri-State’s goodwill was non-recoverable -- the Company did not recognize any impairment of the $5.4 million in goodwill attributable to the Tri-State acquisition in its 2000 10-K.

100. The defendants’ statements in the year 2000 10-K were materially false and misleading because it failed to reveal to the investing public that Gainsco’s Tri-State subsidiary had been losing money throughout 2000, that the value of the policies Tri-State had brought to Gainsco was impaired based on the changes Gainsco had made to Tri-State’s historically strict claims and underwriting procedures, and that Gainsco was having significant problems working with Tri-State management. Although the 2000 10-K provided rosy pro forma results from prior to the acquisition, it was false and misleading in failing to also state, as was described in the February 19, 2001 letter, that the Company’s performance had fallen far from these pro forma results during the year since the acquisition, and that Tri-State was now on target to losing nearly $1 million in 2001. Ex. A hereto
at 3) ("Tri-State’s numbers show that its income for 2000 is $1,000,000 less than in 1999. Based on future projections and anticipated [policy transfers to Gainsco], Tri-State will be losing $104,000 per month starting April 1, 2000). In addition to failing to reveal these facts, the Company failed to record any impairment in the approximately $5.4 million in goodwill the Company was carrying attributable to the Tri-State acquisition, when the Company, and defendants Coots and Anderson (who signed the 10-K) knew, or were reckless in failing to ascertain, the above facts about Tri-State’s poor performance.

101. According to the SEC’s interpretative release No. 6835 (May 18, 1989):

The MD&A requirements are intended to provide, in one section of a filing, material historical and prospective textual disclosure enabling investors and other users to assess the financial condition and results of operations of the registrant, with particular emphasis on the registrant’s prospects for the future. As the Concept Release states:

The Commission has long recognized the need for a narrative explanation of the financial statements, because a numerical presentation and brief accompanying footnotes alone may be insufficient for an investor to judge the quality of earnings and the likelihood that past performance is indicative of future performance. MD&A is intended to give the investor an opportunity to look at the company through the eyes of management by providing both a short and long-term analysis of the business of the company. The Item asks management to discuss the dynamics of the business and to analyze the financials.

As the Commission has stated, “[i]t is the responsibility of management to identify and address those key variables and other qualitative and quantitative factors which are peculiar to and necessary for an understanding and evaluation of the individual company.”

The Commission has determined that interpretive guidance is needed regarding the ... MD&A analysis on a segment basis ... a multisegment registrant preparing a full fiscal year MD&A should analyze revenues, profitability, and the cash needs of its significant industry segments. To the extent any segment contributes in a materially disproportionate way to those items, or where discussion on a consolidated basis

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would present an incomplete and misleading picture of the enterprise, segment discussion should be included.

102. The information which was required to be disclosed pursuant to the mandates of the SEC as particularized above was concealed from the investing public, although it was readily available to the defendants as discussed above and as set forth in court-submitted documents.

103. In addition, SEC Staff Accounting Bulletin 99-99 states, in substance, that material trends must be disclosed to investors.

**The Falsity of Gainsco’s 2001 First Quarter Form 10-Q**

104. On May 11, 2001, Anderson and Coots held a conference call with analysts regarding the Company’s financial results for the first quarter of 2001. Anderson was specifically asked about both Lalande and Tri-State by an analyst regarding the Company’s remaining cash obligations to pay for Lalande and Tri-State. Coots reported on the quarter’s financial results. Anderson refused to answer the analyst’s question in detail on the conference call and told him to call back privately. Anderson and Coots said nothing about the financial losses at Tri-State, as discussed below.

105. On May 14, 2001, defendants caused the Company to file its Form 10-Q for the quarterly period ended March 31, 2001 with the SEC (“the 2001 first quarter Form 10-Q”). This document, which was signed by defendant Coots, reflected that the Company sustained a loss in the first quarter 2001 of $1,188,397. The 2001 first quarter Form 10-Q hid the fact that the Tri-State subsidiary was foundering. The 2001 first quarter Form 10-Q reflected as a current asset of the Company $22,549,812 in good will, and stated that the Company was continuing to amortize the $5.4 million in good will attributable to the Tri-State acquisition over a 25-year period on a straight line basis.
106. Despite the admitted unprofitability of the Tri-State subsidiary, and despite language in the 2001 first quarter Form 10-Q assuring the investing public that the Company "periodically reviews the recoverability of goodwill based on an assessment of undiscounted cash flows of future operations to ensure it is appropriately valued," the Company took no write down of the goodwill attributable to the Tri-State acquisition. Moreover, the 2001 first quarter Form 10-Q stated that Gainsco had made a payment "in January, 2001 to Tri-State for meeting certain targets specified in the acquisition agreement." This statement can only have led investors to believe, contrary to the truth, that the Tri-State subsidiary was performing profitably.

107. Defendants' statements in the 2001 first quarter 10-Q were materially false and misleading because they failed to reveal to the investing public that Gainsco's Tri-State subsidiary had been losing money throughout 2000, that the value of the policies Tri-State had brought to Gainsco was impaired based on the changes Gainsco had made to Tri-State's historically strict claims and underwriting procedures, and that Gainsco was having significant problems working with Tri-State management. The 2001 first quarter 10-Q was misleading in that it failed to state that the financial results for the Tri-State subsidiary were far below the pro forma results for 1999 that had been provided in the 2000 Form 10-K. On May 18, 2001, Hill, through his attorney told defendants Anderson: "Tri-State's profitability has declined to the point where Tri-State will lose over $1,000,000 this year." (Ex. B hereto). In addition to failing to reveal these facts and Tri-State's lost profitability, the Company failed to record any impairment in the approximately $5.4 million in goodwill the Company was carrying attributable to the Tri-State acquisition, when the Company, and defendant Coots (who signed the 10-Q) knew, or were reckless in failing to ascertain, the above facts about Tri-State's poor performance.
108. On June 7, 2001, as alleged above, Gainsco sued Hill in Texas state court alleging that Tri-State had suffered poor financial results and asking the Court to declare that Hill’s management “caused or at least contributed to Tri-State’s poor performance,” so that Gainsco could avoid paying Hill $3.3 million in earnout payments he was otherwise entitled to under a Stock Purchase Agreement that Anderson signed on behalf of Gainsco when Tri-State was acquired. (Gainsco, Inc. v. Hill, No. 01-04660E, ¶¶28-29).

109. Gainsco made no disclosure of their lawsuit against Hill at the time of filing. Gainsco should have filed a Form 8-K advising the investing public that Gainsco had sued the President of one of its own divisions, blaming him in part for Tri-State’s continuing loss of profitability. Instead, Gainsco said nothing to the public, nor was the lawsuit, filed in Dallas County state court discoverable by ordinary diligence. Gainsco did not disclose the existence of its lawsuit against Hill until August 14, 2001, when Gainsco announced that the parties had settled and that Tri-State’s goodwill would be written down.

The Falsity of Gainsco’s Statements Describing Second Quarter 2001 Financial Results

110. On August 9, 2001, the Company issued a press release announcing a second quarter loss of $7.9 million and approximately $9 million in one-time charges to earnings. In addition, it stated:

GAINSCO is selling the agency operations of Tri-State, Ltd. (“Tri-State”), a producer of nonstandard private passenger automobile insurance in Minnesota, North Dakota and South Dakota. The transaction is a consequence of the decision by the Company to no longer pursue a long-term geographic expansion strategy in personal automobile, beyond that of its core operation in Florida. Under terms of the transaction, GAINSCO has agreed to sell Tri-State, a subsidiary acquired in 2000, to its current president, and previous owner, for approximately $0.9 million. In conjunction with the decision to exit nonstandard private passenger automobile insurance in the upper Midwest, GAINSCO wrote off in the second quarter
approximately $5.1 million in remaining goodwill from its original investment in the agency operations of Tri-State of approximately $6.0 million. GAINSCO will retain Midwest Casualty Insurance Company, the insurance subsidiary acquired in the 2000 Tri-State transaction.

As a result of the geographic refocus, the Company also wrote off approximately $1 million in personal automobile systems costs. Additionally, GAINSCO is exiting several lines of business, including personal umbrella, personal property, directors and officers, lawyers insurance, educators insurance and its Pro-Reach professional liability product. These lines accounted for approximately $14 million in annual gross premiums written for GAINSCO in 2000. The Company previously announced in 2000 that it was exiting $25 million in annual gross premiums of commercial trucking business .... The Company believes that the current outlook for its ongoing commercial and Florida nonstandard private passenger automobile businesses is positive. Double-Digit rate increases are being achieved in both businesses. Additionally, new legislation enacted in Florida during the second quarter of 2001 and dealing with personal injury protection (PIP) issues in the state is expected to positively impact results in future periods.

111. The August 9, 2001 press release was materially false and misleading because it led the investment community to believe that the worst was behind and that positive occurrences (i.e., double-digit rate increases and new legislation) would result in future profitability when, in fact, loss provisions required by GAAP (FASB Statement No. 5 and FASB Statement No. 60) were woefully understated and the imminent catch-up effect of recognizing these loss provisions would have a materially negative impact on future reported financial results. The press release also failed to reveal that the Tri-State subsidiary had been consistently, from the date of acquisition, losing money, a fact which, if revealed, would have also revealed the falsity in Gainsco having maintained Tri-State’s goodwill as a current asset until August 2001. According to W-3, the board was furious when it learned from Anderson that the Tri-State investment had to be written off.

112. The Company’s “diversification strategy” in a shambles, Anderson and Coots held a conference call with analysts on August 10, 2001. Coots reported on the Company’s financial and
underwriting results. Anderson said nothing about the management problems with Hill or about the lawsuit Gainsco had filed against Hill two months earlier, and nothing directly about Tri-State’s substantial operating losses, but acknowledged the importance Tri-State was to play in Gainsco’s expansion strategy:

The objective in selling Tri-State simply was to protect the Company from the future risk and capital demands assumed with the automobile expansion into additional states and consistent with our previously stated capital preservation objectives, we determined it was in our Company’s best interest to sell Tri-State which was to be a major part of our expansion strategy. (Emphasis added).

113. Anderson told the marketplace on the call that the Company was “on track to demonstrate improved underwriting performance in 2000.” Anderson closed the call by stating again that he believed the Company was on track to profitability in 2002.

114. On August 14, 2001, the Company filed its Form 10-Q for the quarterly period ended June 30, 2001 with the SEC (“the 2001 second quarter Form 10-Q”). This document, which was signed by defendant Coots, reflected a $5,086,283 charge to earnings based on impairment of the goodwill attributable to the Tri-State subsidiary. The 2001 second quarter Form 10-Q described the terms of the sale of Tri-State in detail, which provided, in sum, for payment by Herbert Hill to Gainsco of $931,968, to be paid over a period of ten months. In explaining the decision to write off the goodwill for Tri-State, the 2001 second quarter Form 10-Q stated, “[the Company has decided to no longer pursue a long-term geographic expansion strategy in personal automobile, beyond that of its core operation in Florida and has agreed to sell its Tri-State agency subsidiary to Tri-State’s president for approximately $900,000. As a result, the remaining goodwill associated with the Tri-State acquisition of $5,086,283 was written off.”
115. The 2001 second quarter Form 10-Q was materially false and misleading for substantially the same reasons that the August 9, 2001 press release was materially false and misleading as set forth above, namely it led the investment community to believe that the worse was behind Gainsco and that positive occurrences would result in future profitability. In fact, however, the Company’s GAAP loss provisions were woefully understated and the imminent catch up effect of recognizing these loss provisions would negatively impact future reported financial results. Although Gainsco had announced the goodwill write down of Tri-State, it did not disclose the losses Tri-State had consistently sustained from the beginning of the Class Period, nor did it disclose the large number of claims from former Tri-State policy holders (now Gainsco policy holders) that Gainsco would continue to have to pay. Gainsco’s payment of these prior period claims would result in continued losses stemming from the Tri-State acquisition.

116. On November 12, 2001, defendants caused the Company to issue a press release announcing a third quarter loss of $4.3 million. Commenting on the results, Anderson stated:

... our $4.3 million loss this quarter was attributable principally to an increase in our pre-tax estimate of ultimate liabilities for prior period claims of approximately $6.2 million. Of this increase, $5.0 million was attributable to past written business and claims in the commercial automobile liability product line, and largely due to the Company's trucking business (an approximately $25 million book which the Company has been exiting throughout 2001).

117. The November 12, 2001 press release was materially false and misleading because defendants falsely attributed the losses to the Company’s trucking business when, in fact, the past claims causing losses related principally to Tri-State. As discussed above, soon after Gainsco acquired Tri-State, Gainsco began converting Tri-State’s book of insurance policies to Gainsco -- extending the policy length from one month to six. As a result, Gainsco continued to own Tri-State’s
liabilities, namely, its high risk insurance policies that continued to cause Tri-State to suffer losses on claims payments.

118. On November 14, 2001, the Company filed its Form 10-Q for the quarterly period ended September 30, 2001 with the SEC ("the 2001 third quarter Form 10-Q"). This document, which was signed by Defendant Coots and which reflected financial information which was substantially identical to the financial information which was reported in the November 12, 2001 press release, was materially false and misleading for the reasons set forth above in ¶¶115 and 117.

119. Defendants were required to cause the Company to disclose, in its financial statements and news releases the existence of the material facts described herein and to appropriately recognize and report expenses in conformity with GAAP. Defendants failed to cause the Company to make such disclosures and to account for and to report expenses in conformity with GAAP.

120. Due to the pervasive mosaic of non-disclosures, deceptive disclosures, and non-GAAP accounting, the above-particularized documents which defendants caused the Company to disseminate to the investing public during the Class Period were materially (as described in SEC Staff Accounting Bulletin No. 99) false and misleading.

121. Defendants knew and ignored, or were reckless in not knowing, the facts which indicated that the above-particularized press releases, public statements, and filings with the SEC which were disseminated to the investing public during the Class Period, were materially false and misleading for the reasons set forth above.

122. SEC Regulation S-X requires that financial statements filed with the SEC conform with GAAP. Financial statements filed with the SEC which are not prepared in conformity with GAAP are presumed to be misleading or inaccurate. [17 C.F.R. §210.401(a)(1)]. The Company’s
financial statements which were disseminated to the investing public during the Class Period, which represented that the Company’s financial position and results of operations were in conformity with GAAP, were false and misleading for the reasons alleged herein and because they constituted an extreme departure from GAAP. Said financial statements violated the following GAAP concepts among others noted above:

a. The concept 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 (FASB Statement of Financial Accounting Concepts No. 1).

b. The concept that financial reporting should provide information about an enterprise’s financial performance during a period (FASB Statement of Financial Accounting Concepts No. 1).

c. The concept that financial reporting should be reliable in that it represents what it purports to represent (FASB Statement of Financial Accounting Concepts No. 2).

d. The concept of completeness, which means that nothing material is left out of the information that may be necessary to ensure that it validly represents underlying events and conditions (FASB Statement of Financial Accounting Concepts No. 2).

e. The concept 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 (FASB Statement of Financial Accounting Concepts No. 2).

f. The concept that the quality of reliability and, in particular, of representational faithfulness leaves no room for accounting representations that subordinate substance to form (FASB Statement of Financial Accounting Concepts No. 2).
123. Each and every Form 10-Q which defendants caused to be filed with the SEC during the Class Period contained a substantially identical representation which stated: "In the opinion of management, the accompanying consolidated financial statements contain all adjustments ... necessary to present fairly the financial position of GAINSCO, INC. and subsidiaries (the "Company") ... the results of operations and the statements of cash flows ... on the basis of generally accepted accounting principles."

124. For the reasons set forth above, the financial statements which were contained within the 2000 Form 10-K and each and every Form 10-Q which defendants caused to be filed with the SEC during the Class Period did not fairly present (AICPA Professional Standards Volume 1, U.S. Auditing Standards, Section 411) the Company's results of operations and financial position in conformity with generally accepted accounting principles because:

a. The accounting principles selected and applied did not have general acceptance.

b. The accounting principles were not appropriate in the circumstances.

c. The financial statements, including the related notes, were not informative of matters that affected their use, understanding, and interpretation.

d. The financial statements did not reflect the underlying events and transactions in a manner that presented the financial position and the results of operations within a range of acceptable limits that were reasonable and practicable to attain in financial statements.

125. On February 7, 2002, the Company issued a press release warning investors that it "expect[ed] to report a significant loss for the fourth quarter and year ended December 31, 2001." Belatedly reporting catch up loss provisions, Gainsco stated "The Company expects to include in its
fourth quarter loss an increase of $16.9 million in its provision for ultimate estimated claim liabilities. Additionally, the Company expects to make a provision of $2.6 million for potentially uncollectible receivables.” The press release further announced a plan to “discontinue writing commercial lines insurance business due to continued adverse claims development and unprofitable results.” These adverse claims developments were attributable to Gainsco’s continued payment of claims emanating from the high risk policies it acquired from Tri-State. Gainsco stock dropped on this announcement from a price on February 6, 2002 of $1.18 to a close on February 7, 2002 of $0.65.

APPLICABILITY OF PRESUMPTION OF RELIANCE: FRAUD-ON-THE-MARKET DOCTRINE

126. At all relevant times, the market for Gainsco common stock was an efficient market for the following reasons, among others:

a. Gainsco common stock met the requirements for listing, and was listed and actively traded, on the NYSE, a highly efficient market;

b. As a regulated issuer, Gainsco filed periodic public reports with the SEC;

c. Gainsco stock was followed by securities analysts employed by major brokerage firms who wrote reports which were distributed to the sales force and certain customers of their respective brokerage firms. Each of these reports was publicly available and entered the public marketplace.

d. Gainsco regularly issued press releases which were carried by national newswires. Each of these releases was publicly available and entered the public marketplace.
127. As a result, the market for Gainsco securities promptly digested current information with respect to Gainsco from all publicly-available sources and reflected such information in Gainsco’s stock price. Under these circumstances, all purchasers of Gainsco common stock during the Class Period suffered similar injury through their purchase of stock at artificially inflated prices and a presumption of reliance applies.

NO SAFE HARBOR

128. The statutory safe harbor provided for forward-looking statements under certain circumstances does not apply to any of the allegedly false statements pleaded in this complaint. The specific statements pleaded herein were not identified as "forward-looking statements" when made. Nor was it stated with respect to any of the statements forming the basis of this complaint that actual results "could differ materially from those projected." To the extent there were any forward-looking statements, there were no meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the purportedly forward-looking statements. Alternatively, to the extent that the statutory safe harbor does apply to any forward-looking statements pleaded herein, defendants are liable for those false forward-looking statements because at the time each of those forward-looking was made the particular speaker knew that the particular forward-looking statement was false, and/or the forward-looking statement was authorized and/or approved by an executive officer of Gainsco who knew that those statements were false when made.

SCIENTER ALLEGATIONS

129. As alleged herein, defendants acted with scienter in that defendants knew that the public documents and statements, issued or disseminated by or in the name of the Company were materially false and misleading; knew or recklessly disregarded that such statements or documents
would be issued or disseminated to the investing public; and knowingly and substantially participated or acquiesced in the issuance or dissemination of such statements or documents as primary violators of the federal securities laws. As set forth elsewhere herein in detail, defendants, by virtue of their receipt of information reflecting the true facts regarding Gainsco and its business practices, their control over and/or receipt of Gainsco's allegedly materially misleading misstatements and/or their associations with the Company which made them privy to confidential proprietary information concerning Gainsco were active and culpable participants in the fraudulent scheme alleged herein. Defendants knew and/or recklessly disregarded the falsity and misleading nature of the information which they caused to be disseminated to the investing public. This case does not involve allegations of false forward-looking statements or projections but instead involves false statements concerning the Company's business, finances and operations. The ongoing fraudulent scheme described in this complaint could not have been perpetrated over a substantial period of time, as has occurred, without the knowledge and complicity of the personnel at the highest level of the Company, including the Individual Defendants.

130. The Individual Defendants engaged in such a scheme to inflate the price of Gainsco common stock in order to: (i) protect and enhance their executive positions and the substantial compensation and prestige they obtained thereby; and (ii) enhance the value of their personal holdings of Gainsco common stock and options.

131. In addition, defendants' scienter may be inferred from the following:

- The knowledge that Tri-State was consistently losing money at least from mid-2000 and on, from financial reports Anderson and Coots received, but without disclosing that fact to investors;
Anderson’s continued statements in conference calls and press releases that the Company would be profitable, based on the Personal Lines Division, without disclosing the problems at Tri-State;

- Anderson’s statement to W-3 that he could not afford politically to be truthful with Gainsco’s board about Tri-State’s losses;

- The failure to timely recognize the impairment to more than $5 million in goodwill relating to the Tri-State acquisition, even after Hill had repeatedly told Tri-State management and Anderson of Tri-State’s lost profitability;

- The Company’s failure to disclose its intent to loosen the grace period on Tri-State’s policies, which increased the risk of additional claims and caused Tri-State to lose profitability.

**COUNT I**

Against All Defendants for Violations of Section 10(b)

of the Exchange Act and Rule 10b-5(b)

132. Plaintiff repeats and realleges each and every allegation contained in the above paragraphs, as if fully set forth herein. This claim is asserted against all defendants.

133. Defendants (a) deceived the investing public, including Plaintiff and other Class members, as alleged herein; (b) artificially inflated and maintained the market price of Gainsco common stock; and (c) caused members of the Class to purchase or otherwise acquire Gainsco common stock at artificially inflated prices.

134. Defendants made untrue statements of material fact and/or omitted to state material facts necessary to make the statements made not misleading, which operated as a fraud and deceit
upon the purchasers of Gainsco common stock in an effort to maintain artificially high market prices for Gainsco common stock in violation of Section 10(b) of the Exchange Act and Rule 10b-5(b).

135. In addition to the duties of full disclosure imposed on defendants as a result of their making of affirmative statements and reports, or participation in the making of affirmative statements and reports to the investing public, defendants had a duty to promptly disseminate truthful information that would be material to investors in compliance with the integrated disclosure provisions of the SEC as embodied in SEC Regulation S-K (17 C.F.R. §229.10 et seq.) and other SEC regulations, including accurate and truthful information with respect to the Company’s operations and performance so that the market prices of the Company’s publicly traded securities would be based on truthful, complete and accurate information.

136. Defendants, directly and indirectly, by the use of means and instrumentalities of interstate commerce and/or of the mails, engaged and participated in a continuous course of conduct to conceal adverse, material information about the Company’s financial results, and business operations, as specified herein. Defendants made, or participated in the making of, untrue statements of material facts and omitted to state material facts necessary in order to make the statements made about the Company in the light of the circumstances under which they were made, not misleading, as set forth herein.

137. Defendants had actual knowledge of the misrepresentations and omissions of material facts set forth herein, or acted with deliberate reckless disregard for the truth in that they failed to ascertain and to disclose such facts, even though such facts were available to them.

138. As a result of the dissemination of the materially false and misleading information and failure to disclose material facts, as set forth above, the market price of Gainsco common stock
was artificially inflated throughout the Class Period. In ignorance of the fact that the market price of Gainsco common stock was artificially inflated, and relying directly or indirectly on the false and misleading statements made by defendants, or upon the integrity of the market in which the securities trade, and the truth of any representations made to appropriate agencies and to the investing public, at the times at which any statements were made, and/or on the absence of material adverse information that was known or with deliberate recklessness disregarded by defendants but not disclosed in public statements by defendants, Plaintiff and the other members of the Class purchased or acquired Gainsco common stock at artificially high prices and were damaged thereby.

139. At the time of said misrepresentations and omissions, Plaintiff and the other members of the Class were ignorant of their falsity, and believed the false statements to be true. Had Plaintiff and the other members of the Class and the marketplace known of the true nature of the operations of the Company and the noncompliance with federal law, which were not disclosed by defendants, Plaintiff and the other members of the Class would not have purchased or acquired their Gainsco common stock or, if they had purchased or acquired such securities, they would not have done so at the artificially inflated prices which they paid.

140. By virtue of the foregoing, defendants have violated Section 10(b) of the Exchange Act, and Rule 10b-5(b) promulgated thereunder.

141. As a direct and proximate result of defendants’ wrongful conduct, Plaintiff and the other members of the Class suffered damages in connection with their acquisition of Gainsco common stock.
COUNT II

Against All Defendants for Violations of Section 10(b) Of the Exchange Act and Rule 10b-5(a) & (c) Promulgated Thereunder

142. Plaintiff repeats and realleges each and every allegation set forth above as if fully set forth herein. This Count is asserted against all defendants.

143. During the Class Period, defendants carried out a plan, scheme and course of conduct that was intended to and did: (i) deceive the investing public, including Plaintiff and other Class members, as alleged herein; (ii) artificially inflate the market price of Gainsco common stock, and (iii) cause Plaintiff and other Class members to purchase Gainsco common stock at artificially inflated prices.

144. In furtherance of this unlawful plan, scheme and course of conduct, defendants employed devices, schemes and artifices to defraud and engaged in acts, practices and a course of business which operated as a fraud and deceit upon the investing public, in connection with the purchase of Gainsco common stock, in violation of Section 10(b) of the Exchange Act and Rule 10b-5(a) and (c) promulgated thereunder.

145. Defendants’ fraudulent devices, schemes, artifices and deceptive acts, practices and course of business included the failure to disclose the related party transactions alleged above and the issuance of false and misleading financial statements as alleged.

146. Defendants acted knowingly or with deliberate recklessness and for the purpose and effect of artificially inflating the price of the Company’s common stock.

147. The members of the Class reasonably relied upon the integrity of the market in which the Company’s common stock traded.
148. Plaintiff and the other members of the Class were ignorant of defendant’s fraudulent scheme and unlawful course of conduct. Had Plaintiff and the other members of the Class known of defendants’ unlawful scheme and unlawful course of conduct, they would not have purchased or otherwise acquired Gainsco common stock or if they had, they would not have purchased or otherwise acquired them at the artificially inflated prices they paid for such common stock.

149. Plaintiff and the members of the Class were injured because the risks that materialized were risks of which they were unaware as a result of defendants’ scheme to defraud as alleged herein.

150. By virtue of the foregoing, defendants violated Section 10(b) of the Exchange Act and Rule 10b-5(a) and (c) promulgated thereunder.

151. As a direct and proximate result of defendants’ scheme to defraud and defendants’ unlawful course of conduct, Plaintiff and the other members of the Class suffered damages in connection with their purchases of Gainsco common stock in an amount to be proven at trial.

152. This Count is brought solely and exclusively under the provisions of Rule 10b-5(a) and (c). Accordingly, Plaintiff need not allege or prove that Gainsco or any Individual Defendant made any misrepresentations or omissions of material fact for which they may also be liable under Rule 10b-5(b) and/or any other provisions of law.

COUNT III

(Violation Of Section 20(a) Of The Exchange Act Against Individuals Defendants Anderson and Coots)

153. Plaintiff repeats and realleges each and every allegation contained above.
154. The Individual Defendants (Anderson and Coots) acted as controlling persons of Gainsco within the meaning of Section 20(a) of the Exchange Act. By reason of their senior executive and/or Board positions they had the power and authority to cause Gainsco to engage in the wrongful conduct complained of herein.

155. By reason of such wrongful conduct, Gainsco and the Individual Defendants are liable pursuant to §20(a) of the Exchange Act. As a direct and proximate result of these defendants' wrongful conduct, plaintiffs and the other members of the Class suffered damages in connection with their purchases of Gainsco stock during the Class Period.

WHEREFORE, plaintiff prays for relief and judgment, as follows:

1. Determining that this action is a proper class action and certifying plaintiff as class representative under Rule 23 of the Federal Rules of Civil Procedure;

2. Awarding compensatory damages in favor of plaintiff and the other Class members against all defendants, jointly and severally, for all damages sustained as a result of defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;

3. Awarding plaintiff and the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and

4. Such other and further relief as the Court may deem just and proper.
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via U.S. First Class Mail, this 29th day of March, 2004, to the parties as noted below:

CARLTON FIELDS, P.A.
Charles M. Rosenberg
4000 International Place
100 S.E. Second Street
Miami, FL 33131-1901
Tel:  (305) 530-0050
Fax:  (305) 530-0055

CARLTON FIELDS, P.A.
Gary Lee Sasso
Sam J. Salario, Jr.
One Progress Plaza
200 Central Avenue
St. Petersburg, FL 33701-4352
Tel:  (727) 821-7000
Fax:  (727) 822-3768

JACKSON WALKER, L.L.P.
Mark T. Josephs
901 Main Street, Suite 6000
Dallas, TX 75202
Tel:  (214) 953-6000
Fax:  (214) 953-5822

Attorneys for Defendants

[Signature]
Kenneth J. Varnale
EXHIBIT A
February 19, 2001

Via Facsimile and Regular Mail

Mr. Glenn Anderson, CEO
Gainsco Insurance Companies
500 Commerce Street
Fort Worth, TX 76102-5439

Dear Glenn:

Herb was recently in my office and reviewed with me the operations of Tri-State for the year 2000. Herb is very frustrated with the results of those operations and with the outlook for future operations. I would like to take a minute of your time to review the results of last year's operations, the reasons for the poor results, and relate those poor results to Herb's frustrations.

First, the initial plan for 2000 was to move the Minnesota business to the Lambda System on or before April 1. This move to the Lambda System would result in the transfer of the Clarendon business to MGA Insurance Company. When it was discovered that there was an increase in the loss ratio of the Minnesota business, it was decided to keep the business with Clarendon and let GMAC Re take the total risk.

About the first of October, all of the Clarendon (Minnesota) business was transferred to the Lambda System. The decision at this time was to keep this business with Clarendon by replacing all the one-month policies with six-month policies. Premiums would still be paid monthly under the six-month policies. This transfer caused a number of problems. To begin with, Tri-State had problems obtaining and implementing necessary rate increases.

Further, Tri-State was forced to pay Minnesota agents six months commission in advance, again premiums are paid monthly, on about $6,700,000, which averaged 13%. This resulted in a loss of investment income and a negative cash flow.

Also, MGA Insurance Company was writing Tri-State's new business at the same rates as the renewing Clarendon business. During the fourth quarter it was decided to take a double-digit rate increase with MGA Insurance Company. This would give MGA Insurance Company additional earned premium of about $15,000 between January 1, 2001 and March 21, 2001, the start of the Clarendon roll over.
Minnesota insurance law mandates that Clarendon customers receive sixty days non-renewal notice, which started January 21, 2001. Tri-State is now sending non-renewal notices on its entire book of Clarendon business, asking its Agents to rewrite this business and put it with MGA Insurance Company at a 10% higher rate. In return for $15,000 more in earned premium for MGA, it is doubtful that Tri-State will end up with more than $2,500,000 of the $6,700,000 renewal business. Obviously, a poor trade off.

The transfer to the Lambda system caused additional problems. The first such problem again relates to rate increases. Herb had a discussion concerning rate increases with Joe Pitts during Joe's visit to Spearfish last summer. Herb also discussed rate increases with Mac prior to the close of the Tri-State sale. Tri-State's rate change process on its renewal business, which is the best business, now takes six months rather than one month. Under a one-month policy, if the premium is not paid, the policy lapses. As a result of six-month policies, Tri-State now has a grace period in its billing and Tri-State ends up buying claims simply because an agent can advise the insured to make their late payment and Tri-State will pay the claim. On a six-month policy, a notice of cancellation must be mailed to the insured. As Herb has stated many times, 25% of Tri-State's business lapses every month. Of these lapses, 47% of all claims comes from these people.

Another adverse consequence of the new system concerns reinstatement fees. Tri-State can no longer charge a reinstatement fee of $10.00. Under the old system, if a customer paid late, Tri-State simply gave the insured fewer days' coverage and billed the next monthly premium out sooner. With the Lambda System, Tri-State must add the late fee onto the next billing. The insured gets angry and calls the agent. The agent must explain (after calling Tri-State) that the increase resulted from last month's late payment. Agents get upset, insureds get upset and business is placed with another company that is easier to deal with. As of October 1, 2000 Tri-State was losing $13,000 per month on this fee.

Tri-State tried to collect this fee in North Dakota and South Dakota. The agents and insureds are so upset that Tri-State's first six-month renewals were down 51% before the renewal cycle hit. Prior to the new system, Tri-State averaged only a 35% loss in such business on an annual basis.

Tri-State's numbers show that its net income for 2000 is $1,000,000 less than 1999. Based on future projections and anticipated Clarendon transfers to MGA, Tri-State will be losing $104,000 per month starting April 1, 2001.

Herb did his best to explain how agents and insureds in the Midwest act and react, however, no one would listen and the consequences listed above followed. It is extremely frustrating for Herb to offer advice, have that advice summarily rejected, and view the obvious results of failing to heed his advice.

It is apparent that, contrary to representations of Gainsco, Gainsco did not have the expertise to successfully handle the Tri-State transaction. Tri-State's ability to operate and move forward simply could not take place in the environment created by Gainsco. Tri-State was forced to work through Florida and Florida was already in over its head. For reasons that neither Herb nor I understand,
Gainsco never exhibited any confidence in Tri-State’s ability to operate its own business. Tri-State actually had a better system for handling non-standard auto than Lambda. Tri-State initially had trouble retrieving the information Gainsco wanted, but the information was there and Tri-State’s system could have been modified to provide the requested information for far less than the $50,000 a year now assessed to Tri-State’s operations for the use of the Lambda System.

Tri-State was paperless in 1995. All claims transactions are handled through a photo-link direct to the body shops. Florida is still writing estimates by hand with no imaging abilities. However, under Gainsco’s system, Florida must still check each and every Tri-State claim. There is never a correction or change to the claims, just a meaningless review. A complete waste of time exhibiting an unwarranted lack of confidence in Tri-State. The conversion that was forced upon Tri-State resulted in a huge step backward, not forward.

All Tri-State accomplished in the year 2000 was to put out fires as a result of knee jerk reactions. Herb reports that the morale of the entire Tri-State staff is at the lowest point he has seen in twenty years.

In closing, Herb is frustrated and completely disenchanted with the sale of Tri-State Ltd. It took Herb twenty years to put Tri-State’s successful operations together. It took less than a year for Gainsco to reduce those operations to shambles. Herb went through approximately 100 employees to end up with the 44 excellent employees that Tri-State had at the time of Gainsco’s purchase of the operation. These employees were the best resource Tri-State had. Now Gainsco is going to fire all the Bismarck underwriters and staff and assume those duties in Florida. The work these employees do is not going away. The jobs are being transferred to Florida. Not only is Gainsco disrupting human families by this unwarranted action, but worse for Gainsco, it is losing the valuable resource that Gainsco purchased from Tri-State.

There is absolutely no doubt Gainsco will see an exit of the trucking people when all their friends at Tri-State are fired. The trucking employees will have no confidence or faith in Gainsco. The next question is, when is Gainsco going to shut down Spearfish? If Gainsco thinks the employees in Spearfish are going to stand by and hope they have a job, guess again. Gainsco spent countless dollars on telephone lines, new telephone system, computer systems so Tri-State could communicate. What was Gainsco’s thought process? Every decision was made in Fort Worth or Florida and then relayed to Herb. Herb had absolutely no input and if he did offer suggestions, those suggestions were ignored. Herb has not spoken to you since you were in Spearfish early last summer. When Herb was in charge, the operations of Tri-State resulted in over $1,000,000.00 per year on the bottom line. When Gainsco’s methods are fully instituted, the operation will lose over $1,000,000.00 per year.

Believe it or not, Herb does know how to run and build a successful insurance operation. Herb also understands the demographics of the States where Tri-State is admitted better than Gainsco or Gainsco’s people in Florida or Fort Worth. Herb also understands the employees who work for him and is able to get the most out of these employees. A good example of this is trucking. Herb took Al Heldt out of a clothing store in 1985 and taught him the business. Since 1992, Al has run the