

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION AT AKRON**

IN RE
FAIR FINANCE COMPANY
Debtor
NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH, PA.
Plaintiff
vs.
JAMES F. COCHRAN, TIMOTHY
S. DURHAM, JEFFREY L. EGLIN,
JOHN J. HEAD, DANIEL LAIKIN,
KEITH E. SCHAFFTER, RICK D. SNOW
AND BRIAN BASH, THE CHAPTER 7
BANKRUPTCY TRUSTEE
FOR FAIR FINANCE COMPANY
Defendants

Now comes Plaintiff National Union Fire Insurance Company of Pittsburgh, Pa., (“National Union”) and for its Complaint against Defendants James F. Cochran, Timothy S. Durham, Jeffrey L. Eglen, John J. Head, Daniel Laikin, Keith E. Schaffter, Rick D. Snow and Brian Bash, The Chapter 7 Bankruptcy Trustee for Fair Finance Company (the “Bankruptcy Trustee”), states as follows:

1. This court has jurisdiction over the within adversary proceeding pursuant to 28 U.S.C. § 1334 and 28 U.S.C. § 157 and the claim set forth herein is a proceeding that is otherwise related to a case under Title 11.

{00594990; 2; 0002-3765}



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2. Plaintiff National Union is an insurance company incorporated in Pennsylvania and has its principal place of business in New York. National Union issued a claims-made policy of insurance, Policy No. 04-188-65-80 (“Policy”), to Fair Finance Company (“Fair Finance”), for the period of September 29, 2009 to September 29, 2010 (“Policy Period”).

3. An authentic duplicate of the Policy is attached as Exhibit 1. Capitalized terms not otherwise defined herein are defined in the Policy.

4. Defendant James F. Cochran is an individual and, upon information and belief, is an Insured under the Policy.

5. Defendant Timothy S. Durham is an individual and, upon information and belief, is an Insured under the Policy.

6. Defendant Jeffrey L. Eglen is an individual and, upon information and belief, is an Insured under the Policy.

7. Defendant John J. Head is an individual and, upon information and belief, is an Insured under the Policy.

8. Defendant Daniel Laikin is an individual, upon information and belief, is an Insured under the Policy.

9. Defendant Keith E. Schaffter is an individual, upon information and belief, is an Insured under the Policy.

10. Defendant Rick D. Snow is an individual, upon information and belief, is an Insured under the Policy.

11. The individuals identified in paragraphs 1-10 will be collectively referred to as “Insured Defendants”.

{00594990; 2; 0002-3765}

12. On or about February 24, 2010, the Bankruptcy Trustee was appointed by this Court as the Chapter 7 Trustee of Fair Finance.

13. An authentic duplicate of the Order is attached hereto as Exhibit 2.

14. On June 23, 2010, the Trustee filed certain Crossclaims in the case captioned *McKibben v. Fair Finance Company*, Adversary Proceeding No. 10-5038, United States Bankruptcy Court for the Northern District of Ohio (“Crossclaims”), asserting various causes of action against the Insured Defendants, arising out of acts that allegedly occurred between 2002 and February 8, 2010 (“Noticed Matter”).

15. An authentic duplicate of the Crossclaims in the Noticed Matter is attached as Exhibit 3.

16. As set out in the Insuring Agreements of the Policy, subject to all of its terms and conditions, the Policy affords specified coverage for, *inter alia*, “Loss” of each and every Director, Officer or Employee of [] [Fair Finance] arising from a Claim first made against such Insureds...” This coverage has a Limit of Liability of \$1,000,000.00, “for all Loss combined (including Defense Costs)”.

17. The Policy defines “Loss” in relevant part as “damages, judgments..., settlements and Defense Costs...” Further, the Policy defines “Defense Costs” as “reasonable and necessary fees, costs and expenses consented to by [National Union] . . . resulting solely from the investigation, adjustment, defense and appeal of a Claim against the Insureds”.

18. National Union has received certain requests to advance “Defense Costs” and fund settlements by certain of the Insured Defendants, who are incurring fees, costs and expenses in the Noticed Matter.

{00594990; 2; 0002-3765}

19. On or about May 6, 2011, National Union filed a Motion with the Court respectfully requesting entry of an Order authorizing National Union to advance certain Defense Costs (“May 6, 2011 Motion”).

20. On or about May 20, 2011, the Bankruptcy Trustee filed an objection to National Union’s May 6, 2011 Motion.

21. On July 1, 2011, the Bankruptcy Trustee filed a Motion asking that the Court to reserve its ruling on the May 6, 2011 Motion.

22. National Union, the Individual Insureds and the Bankruptcy Trustee attended numerous mediation sessions under the auspices of John Trimble, Esq., seeking to resolve their various disputes regarding the Policy proceeds. As communicated to the Court on July 23, 2013, such attempts to resolve the various disputes were not successful.

23. On or about June 21, 2013, the Bankruptcy Trustee filed a Complaint against National Union and certain Individual Insureds captioned *Bash v. National Union*, Case No. 10-50494, Adv. Proc. No. 13-5084 (N.D. Ohio Bankr.) seeking amounts payment of certain judgments the Bankruptcy Trustee has obtained against such Individual Insureds.

24. Each of the Defendants has an interest in and/or may be entitled to receive part of the Policy’s \$1,000,000 Limits of Liability.

25. By reason of these adverse interests and/or claims, National Union is entitled to interplead the Policy proceeds, such sum pending judgment by the Court, and discharge any and all liability as to itself.

WHEREFORE, National Union respectfully prays that:

1. The Court order the Defendants to interplead their respective interests and/or claims pursuant to 28 U.S.C. § 1335;

{00594990; 2; 0002-3765}

2. The Court determine the interests and/or claims of the Individual Insureds and/or the Trustees in the Policy proceeds;
3. The Court release and discharge National Union from any and all liability as to itself with respect to the Policy proceeds pursuant to 28 U.S.C. § 1335;
4. The Court enjoin the Trustee from proceeding with his lawsuit against National Union pending the judgment of the Court in the captioned matter;
5. The Court enjoin the Insured Defendants from instituting any action against National Union regarding the Policy; and
6. The Court order such further relief as the Court deems equitable and just.

Respectfully submitted,

/s/ Crystal L. Maluchnik

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*Attorneys for National Union Fire Insurance
Company of Pittsburgh, Pa.*



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Insurance provided by the following member of American International Group, Inc.

National Union Fire Insurance Company of Pittsburgh, Pa.[®]

A capital stock company

DIRECTORS, OFFICERS AND PRIVATE COMPANY LIABILITY INSURANCE POLICY

Including Employment Practices and Securities Liability

PrivateEdgeSM

NOTICE: EXCEPT TO SUCH EXTENT AS MAY OTHERWISE BE PROVIDED HEREIN, THE COVERAGE OF THIS POLICY IS GENERALLY LIMITED TO LIABILITY FOR ONLY THOSE CLAIMS THAT ARE FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD AND REPORTED IN WRITING TO THE INSURER PURSUANT TO THE TERMS HEREIN. PLEASE READ THE POLICY CAREFULLY AND DISCUSS THE COVERAGE THEREUNDER WITH YOUR INSURANCE AGENT OR BROKER.

NOTICE: THE LIMIT OF LIABILITY AVAILABLE TO PAY JUDGMENTS OR SETTLEMENTS SHALL BE REDUCED BY AMOUNTS INCURRED FOR LEGAL DEFENSE. AMOUNTS INCURRED FOR LEGAL DEFENSE SHALL BE APPLIED AGAINST THE RETENTION AMOUNT.

NOTICE: THE INSURER DOES NOT ASSUME ANY DUTY TO DEFEND. HOWEVER THE INSURED MAY UNDER CERTAIN CONDITIONS TENDER THE DEFENSE OF A CLAIM. IN ALL EVENTS, THE INSURER MUST ADVANCE DEFENSE COSTS PAYMENTS PURSUANT TO THE TERMS HEREIN PRIOR TO THE FINAL DISPOSITION OF A CLAIM.

POLICY NUMBER: 04-188-65-80

REPLACEMENT OF POLICY NUMBER: 00-343-84-63

DECLARATIONS

ITEM 1. NAMED ENTITY: *FAIR FINANCE CO*

MAILING ADDRESS: *815 E MARKET ST
AKRON, OH 44305-2423*

STATE OF INCORPORATION OR STATE OF FORMATION OF THE NAMED ENTITY:
Ohio

ITEM 2. SUBSIDIARY COVERAGE: any past, present or future Subsidiary of the Named Entity

ITEM 3. POLICY PERIOD: From: *September 29, 2009* To: *September 29, 2010*
(12:01 A.M. standard time at the address stated in Item 1.)

ITEM 4. LIMIT OF LIABILITY: *\$1,000,000*
aggregate for all Loss combined (including Defense Costs)

1130863

EXHIBIT 1

ITEM 5. RETENTION:

Judgments, Settlements and
Defense Costs (non- Indemnifiable Loss) None

Employment Practices Claims

Judgments, Settlements and Defense Costs
(Company and Indemnifiable Loss) N/A

for Loss arising from Claims
alleging the same Wrongful Act
or Related Wrongful Acts
(waivable under Clause 6 in
certain circumstances)

Security Claims (other than private placements)

Judgments, Settlements and Defense Costs
(Company and Indemnifiable Loss) \$25,000

for Loss arising from Claims
alleging the same Wrongful Act
or Related Wrongful Acts
(waivable under Clause 6 in
certain circumstances)

All Other Claims (including private placements)

Judgments, Settlements and Defense Costs
(Company and Indemnifiable Loss) \$25,000

for Loss arising from Claims
alleging the same Wrongful Act
or Related Wrongful Acts
(waivable under Clause 6 in
certain circumstances)

ITEM 6. CONTINUITY DATES:

A. Coverages A and B(ii): September 22, 2006

B. Coverage B(i): September 22, 2006

C. Outside Entity Coverage: Per Outside Entity,
see endorsement #

ITEM 7. PREMIUM: \$6,476

*Premium for Certified Acts of Terrorism Coverage under Terrorism
Risk Insurance Act 2002: \$64 included in policy premium.
Any coverage provided for losses caused by an act of terrorism as
defined by TRIA (TRIA Losses) may be partially reimbursed by the
United States under a formula established by TRIA as follows: 85% of
TRIA Losses in excess of the insurer deductible mandated by TRIA, the
deductible to be based on a percentage of the insurer's direct earned
premiums for the year preceding the act of terrorism.*

*A copy of the TRIA disclosure sent with the original quote is
attached hereto.*

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ADDITIONAL PREMIUM FOR PUNITIVE, EXEMPLARY AND
MULTIPLIED DAMAGES: (included in above ☐)
(No punitive damages coverage provided: ☒)

ITEM 8. NAME AND ADDRESS OF INSURER (hereinafter "Insurer"):
(This policy is issued only by the insurance company indicated below.)

National Union Fire Insurance Company of Pittsburgh, Pa.

175 Water Street

New York, NY 10038

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IN WITNESS WHEREOF, the Insurer has caused this policy to be signed on the Declarations page by its President, a Secretary and a duly authorized representative of the Insurer.

Andrew N. Holland

SECRETARY

John Z. Dyle

PRESIDENT

John Z. Dyle

AUTHORIZED REPRESENTATIVE

COUNTERSIGNATURE

DATE

COUNTERSIGNED AT

AMWINS BROKERAGE OF MICHIGAN INC
2851 CHARLEVOIX DR SE #120
GRAND RAPIDS, MI 49546-5802

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**POLICYHOLDER DISCLOSURE
NOTICE OF TERRORISM INSURANCE COVERAGE
(APPLICABLE TO CERTIFIED AND NON- CERTIFIED ACTS)**

You are hereby notified that under the Terrorism Risk Insurance Act, as amended, that you have a right to purchase insurance coverage for losses resulting from acts of terrorism, as defined in Section 102(1) of the Act: The term "act of terrorism" means any act that is certified by the Secretary of the Treasury-in concurrence with the Secretary of State, and the Attorney General of the United States- to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of certain air carriers or vessels or the premises of a United States mission; and to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

YOU SHOULD KNOW THAT WHERE COVERAGE IS PROVIDED BY THIS POLICY FOR LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM, SUCH LOSSES MAY BE PARTIALLY REIMBURSED BY THE UNITED STATES GOVERNMENT UNDER A FORMULA ESTABLISHED BY FEDERAL LAW. HOWEVER, YOUR POLICY MAY CONTAIN OTHER EXCLUSIONS WHICH MIGHT AFFECT YOUR COVERAGE, SUCH AS AN EXCLUSION FOR NUCLEAR EVENTS. UNDER THE FORMULA, THE UNITED STATES GOVERNMENT GENERALLY REIMBURSES 85% OF COVERED TERRORISM LOSSES EXCEEDING THE STATUTORILY ESTABLISHED DEDUCTIBLE PAID BY THE INSURANCE COMPANY PROVIDING THE COVERAGE. THE PREMIUM CHARGED FOR THIS COVERAGE IS PROVIDED BELOW AND DOES NOT INCLUDE ANY CHARGES FOR THE PORTION OF LOSS THAT MAY BE COVERED BY THE FEDERAL GOVERNMENT UNDER THE ACT.

YOU SHOULD ALSO KNOW THAT THE TERRORISM RISK INSURANCE ACT, AS AMENDED, CONTAINS A \$100 BILLION CAP THAT LIMITS U.S. GOVERNMENT REIMBURSEMENT AS WELL AS INSURERS' LIABILITY FOR LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM WHEN THE AMOUNT OF SUCH LOSSES IN ANY ONE CALENDAR YEAR EXCEEDS \$100 BILLION. IF THE AGGREGATE INSURED LOSSES FOR ALL INSURERS EXCEED \$100 BILLION, YOUR COVERAGE MAY BE REDUCED.

COPY OF DISCLOSURE SENT WITH ORIGINAL QUOTE

Insured Name: *FAIR FINANCE CO*

Policy Number: *04-188-65-80*

Policy Period Effective Date From: *September 29, 2009* To: *September 29, 2010*



AIG EXECUTIVE LIABILITYSM

Insurance provided by the following member of American International Group, Inc.

DIRECTORS, OFFICERS AND PRIVATE COMPANY LIABILITY INSURANCE POLICY

Including Employment Practices and Securities Liability

PrivateEdge[®]

In consideration of the payment of the premium, and in reliance upon the statements made to the Insurer by application forming a part hereof and its attachments and the material incorporated therein, the insurance company designated in Item 8 of the Declarations, herein called the Insurer, agrees as follows:

1. INSURING AGREEMENTS

COVERAGE A: INDIVIDUAL INSURED INSURANCE

This policy shall pay the Loss of each and every Director, Officer or Employee of the Company arising from a Claim first made against such Insureds during the Policy Period or the Discovery Period (if applicable) and reported to the Insurer pursuant to the terms of this policy for any actual or alleged Wrongful Act in their respective capacities as Directors, Officers or Employees of the Company except when and to the extent that the Company has indemnified such Insureds. The Insurer shall, in accordance with and subject to Clause 8, advance Defense Costs of such Claim prior to its final disposition.

COVERAGE B: PRIVATE COMPANY INSURANCE

This policy shall pay the Loss of the Company arising from a:

- (i) Claim first made against the Company, or
- (ii) Claim first made against an Individual Insured,

during the Policy Period or the Discovery Period (if applicable) and reported to the Insurer pursuant to the terms of this policy for any actual or alleged Wrongful Act, but, in the case of (ii) above, only when and to the extent that the Company has indemnified the Individual Insured for such Loss pursuant to law, common or statutory, or contract, or the Charter or By-laws of the Company duly effective under such law which determines and defines such rights of indemnity. The Insurer shall, in accordance with and subject to Clause 8, advance Defense Costs of such Claim prior to its final disposition.

DEFENSE PROVISIONS

The Insurer does not assume any duty to defend, provided, however, the Named Entity may at its sole option tender to the Insurer the defense of a Claim for which coverage is provided by this policy to the Insurer in accordance with Clause 8 of the policy. Regardless of whether the defense is so tendered, the Insurer shall advance Defense Costs (excess of the applicable retention amount) of such Claim prior to its final disposition. Selection of counsel to defend a "Designated Claim" shall be made in accordance with Clause 9 of the policy.

2. DEFINITIONS

- (a) "Affiliate" means: (i) any person or entity that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is in common control with, another person or entity; or (ii) any person or entity that directly, or indirectly through one or more intermediaries, is a successor in interest to another person or entity.

(b) "Claim" means:

- (1) a written demand for monetary or non-monetary relief (including any request to toll or waive any statute of limitations); or
- (2) a civil, criminal, administrative, regulatory or arbitration proceeding for monetary or non-monetary relief which is commenced by:
 - (i) service of a complaint or similar pleading; or
 - (ii) return of an indictment (in the case of a criminal proceeding); or
 - (iii) receipt or filing of a notice of charges.
- (3) an administrative or regulatory investigation when conducted by the Equal Employment Opportunity Commission ("EEOC") (or similar state, local or foreign agency) which is commenced by the filing of a notice of charges, service of a complaint or similar document of which notice has been given to the Insured. However, in no event shall the term "Claim" include any labor or grievance proceeding which is subject to a collective bargaining agreement.

The term "Claim" shall include an Employment Practices Claim and a Securities Claim.

(c) "Company" means the Named Entity and any Subsidiary thereof.

(d) "Continuity Date" means the date set forth in:

- (1) Item 6A of the Declarations with respect to Coverages A and B(ii); or
- (2) Item 6B of the Declarations with respect to Coverage B(i); or
- (3) Item 6C of the Declarations with respect to a Claim made against an Individual Insured(s) arising out of such Insured's service as a director, officer, trustee or governor of an Outside Entity.

(e) "Defense Costs" means reasonable and necessary fees, costs and expenses consented to by the Insurer (including premiums for any appeal bond, attachment bond or similar bond, but without any obligation to apply for or furnish any such bond) resulting solely from the investigation, adjustment, defense and appeal of a Claim against the Insureds, but excluding salaries of officers or Employees of the Company.

(f) "Employee(s)" means any past, present or future employee, whether such employee is in a supervisory, co-worker or subordinate position or otherwise, including any part-time, seasonal and temporary employee in his or her capacity as such. An individual who is leased to the Company shall also be an Employee, but only if the Company provides indemnification to such leased individual in the same manner as is provided to the Company's employees. Any other individual who is contracted to perform work for the Company, or who is an independent contractor for the Company shall also be an Employee, but only if the Company provides indemnification to such individual in the same manner as that provided to the Company's employees, and such individual is scheduled by written endorsement attached hereto and the Company pays any additional premium required by the Insurer relating to such individual.

(g) "Employment Practices Claim" means a Claim alleging an Employment Practices Violation.

(h) "Employment Practices Violation(s)" means any actual or alleged:

- (1) wrongful dismissal, discharge or termination (either actual or constructive) of employment, including breach of an implied contract;
- (2) harassment (including sexual harassment whether "quid pro quo", hostile work environment or otherwise);
- (3) discrimination, (including but not limited to discrimination based upon age, gender, race, color, national origin, religion, sexual orientation or preference, pregnancy, or disability);
- (4) Retaliation (including lockouts);
- (5) employment-related misrepresentation(s) to an Employee or applicant for employment with the Company;
- (6) employment-related libel, slander, humiliation, defamation, invasion of privacy;
- (7) wrongful failure to employ or promote;
- (8) wrongful deprivation of career opportunity, wrongful demotion or negligent employee evaluation, including the giving of negative or defamatory statements in connection with an employee reference;
- (9) wrongful discipline;
- (10) failure to grant tenure;
- (11) failure to provide or enforce adequate or consistent corporate policies and procedure relating to any Employment Practices Violation; or
- (12) violation of an individual's civil rights relating to any of the above,

but only if the Employment Practices Violation relates to an Employee(s), or applicant for employment with the Company or an Outside Entity, whether direct, indirect, intentional or unintentional.

With respect to any customer or client of the Company, whether individually or as a class or group, Employment Practices Violation shall mean only any actual or alleged discrimination, sexual harassment or violation of an individual's civil rights relating to such discrimination or sexual harassment, whether direct, indirect, intentional or unintentional.

(i) "Individual Insured(s)" means:

- (1) any past, present or future duly elected or appointed directors, officers, management committee members or members of the Board of Managers of the Company, but only in their capacities as such. Coverage will automatically apply to all new directors, officers, management committee members or members of the Board of Managers of the Company after the inception date of this policy;
- (2) any past, present or future duly elected or appointed directors, officers, management committee members or members of the Board of Managers of the Company serving in the capacity as director, officer, trustee or governor of an Outside Entity, but only if such service is at the specific written request or direction of the Company;
- (3) in the event the Company operates outside the United States, then the terms director, officer, management committee member or member of the Board of Managers shall also mean those titles, positions or capacities in such foreign Company which are equivalent to such positions in an organization incorporated or formed within the United States; and
- (4) any Employee(s) of the Company.

- (j) "Insured(s)" means:
- (1) an Individual Insured; and
 - (2) the Company.
- (k) "Loss" means damages (including back pay and front pay), judgments, settlements, pre- and post-judgment interest, and Defense Costs; however, Loss shall not include: (1) civil or criminal fines or penalties imposed by law; (2) taxes; (3) any amount for which the Insureds are not financially liable or which are without legal recourse to the Insureds; (4) employment-related benefits, stock options, perquisites, deferred compensation or any other type of compensation other than salary, wages or bonus compensation; (5) any liability or costs incurred by any Insured to modify any building or property in order to make said building or property more accessible or accommodating to any disabled person, or any liability or costs incurred in connection with any educational, sensitivity or other corporate program, policy or seminar relating to an Employment Practices Claim; or (6) matters which may be deemed uninsurable under the law pursuant to which this policy shall be construed.

If an additional premium is stated in Item 7 of the Declarations page, then Loss shall specifically include, (subject to the policy's other terms, conditions and exclusions, including but not limited to exclusions relating to personal profit or advantage, deliberate fraud, criminal acts or willful violation of any statute, rule or regulation) punitive, exemplary and multiple damages (including the multiple or liquidated damages awards under the Age Discrimination in Employment Act and the Equal Pay Act). It is further understood and agreed that the enforceability of the foregoing coverage shall be governed by such applicable law which most favors coverage for punitive, exemplary and multiple damages. If an additional premium is not stated in Item 7 of the Declarations then Loss shall not include punitive, exemplary damages or the multiplied portion of multiple damages.

- (l) "Named Entity" means the organization stated in Item 1 of the Declarations whether a corporation, association, limited liability company or other type of business organization.
- (m) "No Liability" means: (1) a final judgment of no liability obtained prior to trial, in favor of all Insureds, by reason of a motion to dismiss or a motion for summary judgment, after the exhaustion of all appeals; or (2) a final judgment of no liability obtained after trial, in favor of all Insureds, after the exhaustion of all appeals. In no event shall the term "No Liability" apply to a Claim made against an Insured for which a settlement has occurred.
- (n) "Outside Entity" means:
- (1) a not-for-profit organization under section 501(c)(3) of the Internal Revenue Code of 1986 (as amended); or
 - (2) any other corporation, partnership, joint venture or other organization listed by endorsement to this policy.
- (o) "Policy Period" means the period of time from the inception date shown in Item 3 of the Declarations to the earlier of the expiration date shown in Item 3 of the Declarations or the effective date of cancellation of this policy.
- (p) "Related Wrongful Acts" shall mean Wrongful Acts which are the same, related or continuous, or Wrongful Acts which arise from a common nucleus of facts. Claims can allege Related Wrongful Acts regardless of whether such Claims involve the same or different claimants, Insureds or legal causes of action.
- (q) "Retaliation" means a Wrongful Act of an Insured relating to or alleged to be in response to any of the following activities: (1) the disclosure or threat of disclosure by an Employee to a superior or to any governmental agency of any act by an Insured which act is alleged to be a violation of any federal, state, local or foreign

law, common or statutory, or any rule or regulation promulgated thereunder; (2) the actual or attempted exercise by an Employee of any right that such Employee has under law, including rights under worker's compensation laws, the Family and Medical Leave Act, the Americans with Disabilities Act or any other law relating to employee rights; (3) the filing of any claim under the Federal False Claims Act or any other federal, state, local or foreign "whistle-blower" law; or (4) Employee strikes.

(r) "Securities Claim" means a Claim (including a civil lawsuit or criminal proceeding brought by the Securities & Exchange Commission) made against an Insured anywhere in the world alleging a violation of any law, regulation or rule, whether statutory or common law, which is:

- (1) brought by any person or entity alleging, arising out of, based upon or attributable to, in part or in whole, the purchase or sale, or offer or solicitation of an offer to purchase or sell, any securities of the Company, or
- (2) brought by a securities holder of the Company, whether directly, by class action, or derivatively on the behalf of the Company, or otherwise, alleging any Wrongful Act of an Insured.

(s) "Subsidiary" means:

- (1) any for-profit organization which, on or before the inception of the Policy Period, is more than 50% owned by the Named Entity, either directly, or indirectly through one or more of its Subsidiaries;
- (2) automatically any for-profit organization whose securities are not publicly traded and whose assets total less than 25% of the total consolidated assets of the Company as of the inception date of this policy which becomes a Subsidiary during the Policy Period. The Named Entity shall provide the Insurer with full particulars of the new Subsidiary before the end of the Policy Period; or
- (3) an organization which becomes a Subsidiary during the Policy Period (other than a for-profit organization described in paragraph (2) above), but only upon the condition that within 90 days of its becoming a Subsidiary, the Named Entity shall have provided the Insurer with full particulars of the new Subsidiary and agreed to any additional premium or amendment of the provisions of this policy required by the Insurer relating to such new Subsidiary. Further, coverage as shall be afforded to the new Subsidiary is conditioned upon the Named Entity paying when due any additional premium required by the Insurer relating to such new Subsidiary.

An organization becomes a Subsidiary when the Named Entity owns more than a 50% ownership interest in such Subsidiary, either directly, or indirectly through one or more of its Subsidiaries. An organization ceases to be a Subsidiary when the Named Entity ceases to own more than a 50% ownership interest in such Subsidiary, either directly, or indirectly through one or more of its Subsidiaries.

In all events, coverage as is afforded under this policy with respect to a Claim made against Individual Insureds or a Claim made against any Subsidiary, shall only apply to Claims for Wrongful Acts committed or allegedly committed after the effective time that such Subsidiary became a Subsidiary and prior to the time that such Subsidiary ceased to be a Subsidiary.

(t) "Wrongful Act" means:

- (1) with respect to Individual Insureds, any breach of duty, neglect, error, misstatement, misleading statement, omission or act by such Insureds in their respective capacities as such, or any matter claimed against such Insured solely by reason of their status as directors, officers or Employees of the Company;
- (2) with respect to the Company, any breach of duty, neglect, error, misstatement, misleading statement, omission or act by the Company; and
- (3) with respect to service on an Outside Entity, any matter claimed against an Individual Insured as defined in definition (i)(2) arising out of his or her serving as a director, officer, trustee or governor of an Outside Entity in such capacity, but only if such service is at the specific written request or direction of the Company.

With respect to an Employment Practices Claim, the term "Wrongful Act" shall include any Employment Practices Violation.

3. EXTENSIONS

Subject otherwise to the terms hereof, this policy shall cover Loss arising from any Claims made against the estates, heirs, or legal representatives of deceased Individual Insureds, and the legal representatives of Individual Insureds in the event of incompetency, insolvency or bankruptcy, who were Individual Insureds at the time the Wrongful Act upon which such Claims are based were committed.

Subject otherwise to the terms hereof, this policy shall cover Loss arising from all Claims made against the lawful spouse (whether such status is derived by reason of statutory law, common law or otherwise of any applicable jurisdiction in the world) of an Individual Insured for all Claims arising solely out of his or her status as the spouse of an Individual Insured, including a Claim that seeks damages recoverable from marital community property, property jointly held by the Individual Insured and the spouse, or property transferred from the Individual Insured to the spouse; provided, however, that this extension shall not afford coverage for any Claim for any actual or alleged Wrongful Act of the spouse, but shall apply only to Claims arising out of any actual or alleged Wrongful Acts of an Individual Insured, subject to the policy's terms, conditions and exclusions.

4. EXCLUSIONS

The Insurer shall not be liable to make any payment for Loss in connection with a Claim made against an Insured:

- (a) arising out of, based upon or attributable to the gaining in fact of any profit or advantage to which an Insured was not legally entitled;
- (b) arising out of, based upon or attributable to: (1) profits in fact made from the purchase or sale by an Insured of securities of the Company within the meaning of Section 16(b) of the Securities Exchange Act of 1934 and amendments thereto or similar provisions of any state statutory law; or (2) payments to an Insured of any remuneration without the previous approval of the stockholders of the Company, which payment without such previous approval shall be held to have been illegal;
- (c) arising out of, based upon or attributable to the committing in fact of any criminal, fraudulent or dishonest act, or any willful violation of any statute, rule or law;

[The Wrongful Act of an Insured shall not be imputed to any other Insured for the purpose of determining the applicability of the foregoing exclusions 4(a) through 4(c).]

- (d) alleging, arising out of, based upon or attributable to the facts alleged, or to the same or Related Wrongful Act alleged or contained in any claim which has been reported, or in any circumstances of which notice has been given, under any policy of which this policy is a renewal or replacement or which it may succeed in time;
- (e) alleging, arising out of, based upon or attributable to as of the Continuity Date, any pending or prior: (1) litigation; or (2) administrative or regulatory proceeding or investigation of which an Insured had notice, or alleging any Wrongful Act which is the same or Related Wrongful Act to that alleged in such pending or prior litigation or administrative or regulatory proceeding or investigation;
- (f) alleging, arising out of, based upon or attributable to any actual or alleged act or omission of an Insured serving in any capacity, other than a director, officer, management committee member, member of the Board of Managers or Employee of the Company, or as a director, officer, trustee or governor of an Outside Entity;
- (g) for any Wrongful Act arising out of an Individual Insured serving in a capacity as a director, officer, trustee or governor of an Outside Entity if such Claim is brought by the Outside Entity or a director, officer, trustee or governor thereof;
- (h) alleging, arising out of, based upon or attributable to any actual or alleged contractual liability of the Company or any other Insured under any express contract or agreement; provided, however, that with respect to Employment Practice Claims, this exclusion shall not apply to the extent any liability does not arise under such express employment contract or agreement;
- (i) which is brought by any Insured or by the Company; or which is brought by any security holder of the Company, whether directly or derivatively, unless such security holder's Claim is instigated and continued totally independent of, and totally without the solicitation of, or assistance of, or active participation of, or intervention of, any Insured; provided, however, this exclusion shall not apply to:
 - (1) any Claim brought by an Individual Insured where such Claim is in the form of a cross-claim or third-party claim for contribution or indemnity which is part of and results directly from a Claim which is not otherwise excluded by the terms of this policy; or
 - (2) an Employment Practices Claim brought by an Employee of the Company other than an Employee who is or was a director, member of the Board of Managers or management committee member of the Named Entity;
- (j) alleging, arising out of, based upon or attributable to any public offering of securities by the Company, an Outside Entity or an Affiliate or alleging a purchase or sale of such securities subsequent to such public offering;

provided, however, that this exclusion will not apply to:

- (1) any purchase or sale of securities exempted pursuant to section 3(b) of the Securities Act of 1933. Coverage for such purchase or sale transaction shall not be conditioned upon payment of any additional premium; however, the Named Entity shall give the Insurer written notice of any public offering exempted pursuant to section 3(b), together with full particulars and as soon as practicable, but not later than 30 days after the effective date of the public offering;
- (2) to any public offering of securities (other than a public offering described in paragraph (1) above), as well as any purchase or sale of such securities subsequent to such public offering, in the event that within 30 days prior to the effective time of such public offering: (i) the Named Entity shall give the

Insurer written notice of such public offering together with full particulars and underwriting information required thereto and (ii) the Named Entity accepts such terms, conditions and additional premium required by the Insurer for such coverage. Such coverage is also subject to the Named Entity paying when due any such additional premium. In the event the Company gives written notice with full particulars and underwriting information pursuant to (i) above, then the Insurer must offer a quote for coverage under this paragraph;

- (k) alleging, arising out of, based upon or attributable to the purchase by the Company of securities of a "publicly traded entity" in a transaction which resulted, or would result, in such entity becoming an Affiliate or Subsidiary of the Company; provided, however, this exclusion shall not apply in the event that within 30 days prior to it becoming an Affiliate or Subsidiary, the Named Entity gives written notice of the transaction to the Insurer together with full particulars and underwriting information required and agrees to any additional premium or amendment of the provisions of this policy required by the Insurer relating to the transaction. Further, coverage as shall be afforded to the transaction is conditioned upon the Named Entity paying when due any additional premium required by the Insurer relating to the transaction. An entity is a "publicly traded entity" if any securities of such entity have previously been subject to a public offering;
- (l) alleging, arising out of, based upon, attributable to, or in any way involving, directly or indirectly, bodily injury, sickness, disease or death of any person, or damage to or destruction of any tangible property, including the loss of use thereof; provided, however, that this exclusion shall not apply to Securities Claims;
- (m) for emotional distress, or for injury from libel or slander, or defamation or disparagement, or for injury from a violation of a person's right of privacy; provided, however, this exclusion shall not apply to any Securities Claim or Employment Practices Claim;
- (n) for any actual, alleged or threatened discharge, dispersal, release or escape of pollutants; or for any direction or request to test, monitor, clean up, remove, contain, treat, detoxify or neutralize pollutants; provided, however, this exclusion shall not apply to any Claim brought by a securities holder of the Company in its capacity as such or to any Employment Practices Claim;
- (o) for violation(s) of any of the responsibilities, obligations or duties imposed by the Employee Retirement Income Security Act of 1974, the Fair Labor Standards Act (except the Equal Pay Act), the National Labor Relations Act, the Worker Adjustment and Retraining Notification Act, the Consolidated Omnibus Budget Reconciliation Act, the Occupational Safety and Health Act, any rules or regulations of the foregoing promulgated thereunder, and amendments thereto or any similar provisions of any federal, state, local or foreign statutory law or common law; provided, however, that this exclusion shall not apply to Loss arising from a Claim for Retaliation;
- (p) alleging, arising out of, based upon or attributable to any obligation pursuant to any worker's compensation, disability benefits, unemployment compensation, unemployment insurance, retirement benefits, social security benefits or similar law; provided, however, this exclusion shall not apply to Loss arising from a Claim for Retaliation; or
- (q) with respect to Coverage B(i) only:
 - (1) for any actual or alleged plagiarism, misappropriation, infringement or violation of copyright, patent, trademark, trade secret or any other intellectual property rights;
 - (2) for any actual or alleged violation of any law, whether statutory, regulatory or common law, respecting any of the following activities: anti-trust, business competition, unfair trade practices or tortious interference in another's business or contractual relationships;

- (3) for the rendering or failure to render any service to a customer or client of the Insured; provided, however, that this exclusion shall not apply to any:
 - (i) Claim solely alleging Employment Practices Violations;
 - (ii) Securities Claim; or
 - (iii) Claim for the rendering or failure to render any professional service to the extent such professional services errors and omissions coverage has been added to this policy by written endorsement attached hereto; or
- (4) seeking fines or penalties or non-monetary relief against the Company; provided, however, that this exclusion shall not apply to any Securities Claim or Employment Practices Claim.

5. LIMIT OF LIABILITY and REINSTATED LIMIT OF LIABILITY (FOR ALL LOSS - INCLUDING DEFENSE COSTS)

Defense Costs are not payable by the Insurer in addition to the limit of liability. Defense Costs are part of Loss and as such are subject to the applicable Limit of Liability for Loss.

A. General Terms

The Limit of Liability stated in Item 4 of the Declarations is the limit of the Insurer's liability for all Loss, under Coverage A and Coverage B combined, arising out of all Claims first made against the Insureds during the Policy Period and the Discovery Period (if applicable); however, the Limit of Liability for the Discovery Period shall be part of, and not in addition to, the Limit of Liability for the Policy Period, or the Reinstated Limit as described below (if elected). Further, a Claim which is made subsequent to the Policy Period or Discovery Period (if applicable) which pursuant to Clause 7(b) or 7(c) is considered made during the Policy Period or Discovery Period shall also be subject to the one applicable aggregate Limit of Liability stated in Item 4 of the Declarations, or subject to the one aggregate Reinstated Limit if such Reinstated Limit is applicable to such Claim.

B. Reinstated Limit of Liability

In the event of a Claim under this policy, the Named Entity shall have the right to purchase a Reinstated Limit equal to the Limit of Liability stated in Item 4 of the Declarations. The Reinstated Limit shall be subject to the following conditions:

- 1. The right to elect the Reinstated Limit commences on the date a Claim is reported to the Insurer and expires on the last day of the Policy Period; provided, that in all events, only one reinstatement is permitted under this policy. The effective date of the reinstatement shall be the date on which the Insurer acknowledges receipt of the written notice of the Insured's election to exercise the reinstatement.
- 2. If the Policy Period of this policy is more than one year, then the additional premium to elect the Reinstated Limit at any time after one year from the inception date of this policy shall be fixed at 150% of the premium set forth in Item 7 of the Declarations. Regardless of the length of the Policy Period of this policy, the additional premium to elect the Reinstated Limit within one year from the inception date of this policy shall be an amount determined by the Insurer at the time of the election of the Reinstated Limit unless otherwise indicated by written endorsement to this policy.
- 3. The Reinstated Limit shall only apply to Claims made against an Insured after the effective date of the reinstatement and prior to the end of the Policy

Period or the Discovery Period, if applicable, ("Reinstatement Claims"); provided, however, that the Reinstated Limit shall not apply to Claims which allege a Related Wrongful Act to Claim(s) reported to the Insurer prior to the effective date of the reinstatement.

4. The Reinstated Limit shall be the maximum liability of the Insurer for all Reinstatement Claims. The Limit of Liability described in Clause 5A as applicable to Claims made against the Insureds prior to the effective date of the reinstatement shall not apply to any Reinstatement Claim.
5. Upon exercise of the Reinstated Limit, the entire premium set forth in Item 7 of the Declarations shall be deemed fully earned; the Insureds shall not be entitled to any return premium as a result of the exercise of the Reinstated Limit nor shall any of the premium paid for the policy be credited toward the additional premium required to exercise the Reinstated Limit.
6. In no event shall the right to a reinstatement apply if prior to the effective date of the reinstatement, this policy has been cancelled, is otherwise not in effect, or the Discovery Period has been elected.
7. Other than as stated above, coverage for Reinstatement Claims shall be subject to the same terms, conditions and exclusions of the policy applicable to other Claims under this policy. The Insurer cannot otherwise modify any terms, conditions or exclusions of this policy as a condition of providing the reinstatement.

6. RETENTION CLAUSE

The Insurer shall only be liable for the amount of Loss arising from a Claim which is in excess of the Retention amount stated in Item 5 of the Declarations, such Retention amount to be borne by the Company or the Insureds and shall remain uninsured, with regard to all Loss under: (1) Coverage A or B(ii) for which the Company has indemnified or is permitted or required to indemnify the Individual Insured(s) ("Indemnifiable Loss"), or (2) Coverage B(i). A single Retention amount shall apply to Loss arising from all Claims alleging the same Wrongful Act or Related Wrongful Act.

Subject to the above paragraph, the Retention amounts stated in Item 5 of the Declarations shall apply. In the event a Claim triggers more than one amount stated in Item 5 of the Declarations, only the highest such amount shall apply, which amount shall apply to all Loss under such Claim.

The Retention amount shall be reduced in the event that an Insured consents to the first "Settlement Opportunity", as defined in Clause 8, by the percentage described in Clause 8, subject to the conditions described in Clause 8.

No Retention shall apply to a Claim which is in the form of a civil action for monetary relief and the Insurer shall thereupon reimburse the Defense Costs paid by the Insured, in the event of:

- (1) a determination of No Liability of all Insureds; or
- (2) a dismissal or a stipulation to dismiss the civil litigation Claim without prejudice and without the payment of any consideration by any Insured;

provided, however, that in the case of (2) above, such reimbursement shall occur ninety (90) days after the date of dismissal or stipulation as long as the Claim is not re-brought (or any other Claim which is subject to the same single retention by virtue of Clause 6 is not brought) within that time, and further subject to an undertaking by the Company in a form acceptable to the Insurer that such reimbursement shall be paid back by the Company to the Insurer in the event the Claim (or any other Claim which is subject to the same single retention by virtue of Clause 6) is brought after such 90 day period and before the expiration of the statute of limitations for such Claim.

7. NOTICE/CLAIM REPORTING PROVISIONS

Notice hereunder shall be given in writing to the Insurer named in Item 8 of the Declarations at the address indicated in Item 8 of the Declarations.

If mailed, the date of mailing shall constitute the date that such notice was given and proof of mailing shall be sufficient proof of notice. A Claim shall be considered to have been first made against an Insured when written notice of such Claim is received by any Insured, by the Company on the behalf of any Insured or by the Insurer, whichever comes first.

- (a) The Company or the Insureds shall, as a condition precedent to the obligations of the Insurer under this policy, give written notice to the Insurer of any Claim made against an Insured as soon as practicable and either:
 - (1) anytime during the Policy Period or during the Discovery Period (if applicable); or
 - (2) within 30 days after the end of the Policy Period or the Discovery Period (if applicable), as long as such Claim is reported no later than 30 days after the date such Claim was first made against an Insured.
- (b) If written notice of a Claim has been given to the Insurer pursuant to Clause 7(a) above, then any Claim which is subsequently made against the Insureds and reported to the Insurer alleging a Related Wrongful Act to the Claim for which such notice has been given shall be considered made at the time such notice was given.
- (c) If during the Policy Period or during the Discovery Period (if applicable) the Company or the Insureds shall become aware of any circumstances which may reasonably be expected to give rise to a Claim being made against the Insureds and shall give written notice to the Insurer of the circumstances and the reasons for anticipating such a Claim, with full particulars as to dates, persons and entities involved, then any Claim which is subsequently made against the Insureds and reported to the Insurer alleging, arising out of, based upon or attributable to such circumstances or alleging any Related Wrongful Act to such circumstances, shall be considered made at the time such notice of such circumstances was given.

8. DEFENSE COSTS, SETTLEMENTS, JUDGMENTS (INCLUDING THE ADVANCEMENT OF DEFENSE COSTS)

The Insurer does not assume any duty to defend. The Insureds shall defend and contest any Claim made against them.

Notwithstanding the foregoing, the Insureds shall have the right to tender the defense of the Claim to the Insurer, which right shall be exercised in writing by the Named Entity on behalf of all Insureds to the Insurer pursuant to the notice provisions of Clause 7 of this policy. This right shall terminate if not exercised within 30 days of the date the Claim is first made against an Insured, pursuant to Clause 7 of the policy. Further, from the date the Claim is first made against the Insureds to the date when the Insurer accepts the tender of the defense of such Claim, the Insureds shall take no action, or fail to take any required action, that prejudices the rights of the Insureds or the Insurer with respect to such Claim. Provided that the Insureds have complied with the foregoing, the Insurer shall be obligated to assume the defense of the Claim, even if such Claim is groundless, false or fraudulent. The assumption of the defense of the Claim shall be effective upon written confirmation sent thereof by the Insurer to the Named Entity. Once the defense has been so tendered, the Insured shall have the right to effectively associate with the Insurer in the defense and the negotiation of any settlement of any Claim, subject to the provisions of this Clause 8. However, the Insurer shall not be obligated to defend such Claim after the

POLICYHOLDER NOTICE

Thank you for purchasing insurance from a member company of American International Group, Inc. (AIG). The AIG member companies generally pay compensation to brokers and independent agents, and may have paid compensation in connection with your policy. You can review and obtain information about the nature and range of compensation paid by AIG member companies to brokers and independent agents in the United States by visiting our website at www.aigproducercompensation.com or by calling AIG at 1-800-706-3102.

Limit of Liability has been exhausted, or after an Insured's rejection of a Settlement Opportunity as defined in this Clause 8.

When the Insurer has not assumed the defense of a Claim pursuant to this Clause 8, the Insurer shall advance nevertheless, at the written request of the Insured, Defense Costs prior to the final disposition of a Claim. Such advanced payments by the Insurer shall be repaid to the Insurer by the Insureds or the Company, severally according to their respective interests, in the event and to the extent that the Insureds or the Company shall not be entitled under the terms and conditions of this policy to payment of such Loss.

The Insureds shall not admit or assume any liability, enter into any settlement agreement, stipulate to any judgment, or incur any Defense Costs without the prior written consent of the Insurer. Only those settlements, stipulated judgments and Defense Costs which have been consented to by the Insurer shall be recoverable as Loss under the terms of this policy. The Insurer's consent shall not be unreasonably withheld, provided that the Insurer, when it has not assumed the defense of a Claim pursuant to this Clause 8, shall be entitled to effectively associate in the defense and the negotiation of any settlement of any Claim, and provided further that in all events the Insurer may withhold consent to any settlement, stipulated judgment or Defense Costs, or any portion thereof, to the extent such Loss is not covered under the terms of this policy.

The Insurer shall have the right to effectively associate with the Company in the defense of any Claim that appears reasonably likely to involve the Insurer, including but not limited to negotiating a settlement. The Company and the Insureds shall give the Insurer full cooperation and such information as it may reasonably require.

If the Insurer recommends a settlement within the policy's applicable Limit of Liability which is acceptable to the claimant (a "Settlement Opportunity"), and the Insureds consent to such settlement, then the Insured's applicable retention amount shall be retroactively reduced by ten percent (10%) for such Loss. It shall be a condition to such reduction that the Insureds must consent to such settlement within thirty (30) days of the date the Insureds are first made aware of the Settlement Opportunity, or in the case of a Settlement Opportunity which arises from a settlement offer by the claimant, then within the time permitted by the claimant to accept such settlement offer, but in all events no later than thirty (30) days after the settlement offer was made.

However, if a Settlement Opportunity arises and the Insureds do not consent to the settlement within the time prescribed above, the retention amount shall remain the applicable amount set forth in Item 5 of the Declarations even if consent is given to a subsequent Settlement Opportunity.

Furthermore, in the event the Insureds do not consent to the first Settlement Opportunity within the time prescribed, then, subject to the applicable limit of liability, the Insurer's liability for all Loss on account of such Claim shall not exceed: (1) the amount for which the Insurer could have settled such Claim plus Defense Costs incurred as of the date such settlement was proposed in writing by the Insurer, ("Settlement Opportunity Amount") plus (2) 50% of covered Loss in excess of such Settlement Opportunity Amount, it being a condition of this insurance that the remaining 50% of such Loss excess of the Settlement Opportunity Amount shall be carried by the Company and the Insureds at their own risk and be uninsured. Notwithstanding the foregoing, this paragraph shall not apply until the Settlement Opportunity Amount exceeds the Retention amount stated in Item 5 of the Declarations.

9. PRE- AUTHORIZED DEFENSE ATTORNEYS FOR DESIGNATED CLAIMS

This clause applies only to an Employment Practices Claim or a Securities Claim (each of the foregoing hereinafter referred to as a "Designated Claim").

Affixed as Appendix A hereto and made a part of this policy is a list or lists of Panel Counsel law firms ("Panel Counsel Firms") from which a selection of legal counsel shall be made to conduct the defense of any Designated Claim against an Insured pursuant to the terms set forth below.

In the event the Insurer has assumed the defense pursuant to Clause 8 of this policy, then the Insurer shall select a Panel Counsel Firm to defend the Insureds. In the event the Insureds are already defending a Designated Claim, then the Insureds shall select a Panel Counsel Firm to defend the Insureds.

The selection of the Panel Counsel Firm, whether done by the Insurer or the Insureds, shall be from the list of Panel Counsel Firms designated for the type of Claim and be from the jurisdiction in which the Designated Claim is brought. In the event a Designated Claim is brought in a jurisdiction not included on the appropriate list, the selection shall be made from a listed jurisdiction which is the nearest geographic jurisdiction to either where the Designated Claim is maintained or where the corporate headquarters or state of formation of the Named Entity is located. In such instance, however, the Insurer shall, at the written request of the Named Entity, assign a non-Panel Counsel Firm of the Insurer's choice in the jurisdiction in which the Designated Claim is brought to function as "local counsel" on the Designated Claim to assist the Panel Counsel Firm which will function as "lead counsel" in conducting the defense of the Designated Claim.

With the express prior written consent of the Insurer, an Insured may select (in the case of the Insured defending the Claim), or cause the Insurer to select (in the case of the Insurer defending the Claim), a Panel Counsel Firm different from that selected by other Insured defendants if such selection is required due to an actual conflict of interest or is otherwise reasonably justifiable.

The list of Panel Counsel Firms may be amended from time to time by the Insurer. However, no change shall be made to the specific list attached to this policy during the Policy Period without the consent of the Named Entity.

10. DISCOVERY CLAUSE

Except as indicated below, if the Named Entity shall cancel or the Named Entity or the Insurer shall refuse to renew this policy, the Named Entity shall have the right to a period of either one, two or three years following the effective date of such cancellation or nonrenewal upon payment of the respective "Additional Premium Amount" described below (herein referred to as the "Discovery Period") in which to give to the Insurer written notice of Claims first made against the Insureds during said Discovery Period for any Wrongful Act occurring prior to the end of the Policy Period and otherwise covered by this policy. The rights contained in this paragraph shall terminate, however, unless written notice of such election together with the additional premium due is received by the Insurer within 30 days of the effective date of cancellation or nonrenewal. The Additional Premium for the Discovery Period shall be fully earned at the inception of the Discovery Period. The Discovery Period is not cancelable. This clause and the rights contained herein shall not apply to any cancellation resulting from non-payment of premium.

The Additional Premium Amount for: (1) one year shall be 75% of the "full annual premium"; (2) two years shall be 150% of the "full annual premium"; (3) three years shall be a reasonable premium amount to be mutually agreed upon by the Insured and the Insurer. As used herein, "full annual premium" means the premium level in effect immediately prior to the end of the Policy Period.

In the event of a Transaction, as defined in Clause 12, the Named Entity shall have the right, within 30 days before the end of the Policy Period, to request an offer from the Insurer of a Discovery Period (with respect to Wrongful Acts occurring prior to the effective time of the Transaction) for a period of no less than three years or for such

longer or shorter period as the Named Entity may request. The Insurer shall offer such Discovery Period pursuant to such terms, conditions and premium as the Insurer may reasonably decide. In the event of a Transaction, the right to a Discovery Period shall not otherwise exist except as indicated in this paragraph.

11. CANCELLATION CLAUSE

This policy may be canceled by the Named Entity at any time only by mailing written prior notice to the Insurer or by surrender of this policy to the Insurer or its authorized agent.

This policy may be canceled by or on the behalf of the Insurer only in the event of nonpayment of premium by the Named Entity. In the event of non-payment of premium by the Named Entity, the Insurer may cancel this policy by delivering to the Named Entity or by mailing to the Named Entity, by registered, certified, or other first class mail, at the Named Entity's address as shown in Item 1 of the Declarations, written notice stating when, not less than 30 days thereafter, the cancellation shall be effective. The mailing of such notice as aforesaid shall be sufficient proof of notice. The Policy Period terminates at the date and hour specified in such notice, or at the date and time of surrender. The Insurer shall have the right to the premium amount for the portion of the Policy Period during which the policy was in effect.

If this policy shall be canceled by the Named Entity, the Insurer shall retain the customary short rate proportion of the premium herein.

If the period of limitation relating to the giving of notice is prohibited or made void by any law controlling the construction thereof, such period shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

12. CHANGE IN CONTROL OF NAMED ENTITY

If during the Policy Period:

- a. the Named Entity shall consolidate with or merge into, or sell all or substantially all of its assets to any other person or entity or group of persons or entities acting in concert; or
- b. any person or entity or group of persons or entities acting in concert shall acquire an amount of the outstanding securities representing more than 50% of the voting power for the election of directors of the Named Entity, or acquires the voting rights of such an amount of such securities;

(either of the above events herein referred to as the "Transaction"),

then this policy shall continue in full force and effect as to Wrongful Acts occurring prior to the effective time of the Transaction, but there shall be no coverage afforded by any provision of this policy for any actual or alleged Wrongful Act occurring after the effective time of the Transaction. This policy may not be canceled after the effective time of the Transaction and the entire premium for this policy shall be deemed earned as of such time. The Named Entity shall also have the right to an offer by the Insurer of a Discovery Period described in Clause 10 of the policy.

The Named Entity shall give the Insurer written notice of the Transaction as soon as practicable, but not later than 30 days after the effective date of the Transaction.

13. SUBROGATION

In the event of any payment under this policy, the Insurer shall be subrogated to the extent of such payment to all the Company's and the Insureds' rights of recovery thereof, and the Company and the Insureds shall execute all papers required and shall do everything that may be necessary to secure such rights, including the execution of such documents necessary to enable the Insurer to effectively bring suit in the name of the

Company or the Insureds. In no event, however, shall the Insurer exercise its rights of subrogation against an Insured under this policy unless such Insured has been convicted of a criminal act, or been determined to have committed a dishonest, fraudulent act or willful violation of any statute, rule or law, or obtained any profit or advantage to which such Insured was not legally entitled.

14. OTHER INSURANCE AND INDEMNIFICATION

Such insurance as is provided by this policy shall apply only as excess over any other valid and collectible insurance. This policy specifically shall be excess of any other policy pursuant to which any other insurer has a duty to defend a Claim for which this policy may be obligated to pay Loss.

In the event of a Claim against an Insured arising out of his or her service as a director, officer, trustee or governor of an Outside Entity or an Employment Practices Claim against a leased Employee as described in definition (f) of Clause 2, coverage as is afforded by this policy shall be specifically excess of indemnification provided by such Outside Entity or such leasing company and any insurance provided to such Outside Entity or such leasing company.

Further, in the event other insurance is provided to the Outside Entity or leasing company referenced in the above paragraph, or is provided under any pension trust or employee benefit plan fiduciary liability insurance policy, and such other insurance is provided by the Insurer or any member company of American International Group, Inc. (AIG) (or would be provided but for the application of the retention amount, exhaustion of the limit of liability or failure to submit a notice of a Claim) then the Insurer's maximum aggregate Limit of Liability for all Losses combined in connection with a Claim covered, in part or in whole, by this policy and such other insurance policy issued by AIG shall not exceed the greater of the Limit of Liability of this policy or the limit of liability of such other AIG insurance policy.

15. NOTICE AND AUTHORITY

It is agreed that the Named Entity shall act on behalf of the Subsidiaries and all Insureds with respect to the giving of notice of a Claim, the giving and receiving of notice of cancellation, the payment of premiums and the receiving of any return premiums that may become due under this policy, the receipt and acceptance of any endorsements issued to form a part of this policy, the exercising or declining of the right to tender the defense of a Claim to the Insurer and the exercising or declining of any right to a Discovery Period or Reinstated Limit.

16. ASSIGNMENT

This policy and any and all rights hereunder are not assignable without the written consent of the Insurer.

17. DISPUTE RESOLUTION PROCESS

The Insured shall have the option, in its sole discretion, to submit all disputes or differences which may arise under or in connection with this policy, whether arising before or after termination of this policy, including any determination of the amount of Loss, to the alternative dispute resolution process ("ADR") set forth in this clause.

The Insureds may elect the type of ADR discussed below. The Insurer agrees to submit to the ADR process chosen by the Insured. Once elected, the ADR cannot be terminated prior to a determination without the consent of the Insured and the Insurer.

There shall be two choices of ADR: (1) non-binding mediation administered by the American Arbitration Association, in which the Insurer and Insureds shall try in good faith to settle the dispute by mediation under or in accordance with its then-prevailing Commercial Mediation Rules; or (2) arbitration submitted to the American Arbitration Association under or in accordance with its then-prevailing Commercial Arbitration Rules, in which the arbitration panel shall be composed of three disinterested individuals. In either mediation or arbitration, the mediator(s) or arbitrators shall have knowledge of the legal, corporate management, or insurance issues relevant to the matters in dispute. The mediator(s) or arbitrators shall also give due consideration to the general principles of the law of the state where the Named Entity is incorporated or formed in the construction or interpretation of the provisions of this policy; provided, however, that the terms, conditions, provisions and exclusions of this policy are to be construed in an even-handed fashion in the manner most consistent with the relevant terms, conditions, provisions or exclusions of the policy. In the event of arbitration, the decision of the arbitrators shall be final and binding and provided to both parties, and the arbitrators' award shall not include attorneys fees or other costs. In the event of mediation, either party shall have the right to commence a judicial proceeding; provided, however, that no such judicial proceeding shall be commenced until the mediation shall have been terminated and at least 120 days shall have elapsed from the date of the termination of the mediation. In all events, each party shall share equally the expenses of the ADR.

Either choice of ADR may be commenced in New York, New York; Atlanta, Georgia; Chicago, Illinois; Denver, Colorado; or in the state indicated in Item 1 of the Declarations page as the mailing address for the Named Entity. The Named Entity shall act on behalf of all Insureds in deciding to proceed with ADR under this clause.

18. ACTION AGAINST INSURER

Except as provided in Clause 17 of the policy, no action shall lie against the Insurer unless, as a condition precedent thereto, there shall have been full compliance with all of the terms of this policy, nor until the amount of the Insureds' obligation to pay shall have been finally determined either by judgment against the Insureds after actual trial or by written agreement of the Insureds, the claimant and the Insurer.

Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this policy to the extent of the insurance afforded by this policy. No person or organization shall have any right under this policy to join the Insurer as a party to any action against the Insureds or the Company to determine the Insureds' liability, nor shall the Insurer be impleaded by the Insureds or the Company or their legal representatives. Bankruptcy or insolvency of the Company or the Insureds or of their estates shall not relieve the Insurer of any of its obligations hereunder.

19. REPRESENTATIONS AND SEVERABILITY

In granting coverage under this Policy, it is agreed that the Insurer has relied upon the statements and representations contained in the application for this policy (including materials submitted thereto and, if this is a renewal application, all such previous policy applications for which this policy is a renewal) as being accurate and complete. All such statements and representations shall be deemed to be material to the risk assumed by the Insurer, are the basis of this policy and are to be considered as incorporated into this policy.

With respect to such statements and representations, no knowledge or information possessed by any Individual Insured, except for those person or persons who executed the application, shall be imputed to any other Individual Insured. If any person who executed the application knew that such statement or representation was inaccurate or incomplete,

then this policy will be void as to all Insureds other than Individual Insureds who are "non-employee Directors" of the Company and who did not personally know the statement or representation to be inaccurate or incomplete. (The term "non-employee Director" shall have the meaning described in Securities & Exchange Commission rules or regulations promulgated pursuant to Section 16 of the Securities Exchange Act of 1934).

20. WORLDWIDE TERRITORY

This policy shall apply to Claims made against an Insured anywhere in the world.

21. HEADINGS

The descriptions in the headings of this policy are solely for convenience, and form no part of the terms and conditions of coverage.

APPENDIX A
SECURITIES CLAIMS PANEL COUNSEL LIST

In consideration of the premium charged, it is understood and agreed as follows: The information in our Panel Counsel lists/appendices is now accessible through our online Panel Counsel Directory at <http://www.briefbase.com/default.aspx> at the "Panel Counsel" tab. To access the applicable online Panel Counsel Directory, please go to the website, click on the "Panel Counsel" tab and then click on the "Directors & Officers (Securities Claims)" link.

References in this policy to list of Panel Counsel law firms or related appendices are deemed amended to refer to the applicable Panel Counsel Directories at the website referenced above.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

Revised (6/08)

APPENDIX A
EMPLOYMENT PRACTICES CLAIM PANEL COUNSEL

In consideration of the premium charged, it is understood and agreed as follows: The information in our Panel Counsel lists/appendices is now accessible through our online Panel Counsel Directory at <http://www.briefbase.com/default.aspx> at the "Panel Counsel" tab. To access the applicable online Panel Counsel Directory, please go to the website, click on the "Panel Counsel" tab and then click on "Employment Practices Liability" link and select the applicable Panel Counsel Directory, either the "4-97 Monoline/Public Companies" link or the "Private Edge" link.

References in this policy to list of Panel Counsel law firms or related appendices are deemed amended to refer to the applicable Panel Counsel Directories at the website referenced above.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

Revised (6/08)

ENDORSEMENT# 1

This endorsement, effective *12:01 a.m. September 29, 2009* forms a part of
policy number *04-188-65-80*
issued to *FAIR FINANCE CO*

by *National Union Fire Insurance Company of Pittsburgh, Pa.*

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

OHIO CANCELLATION/NONRENEWAL ENDORSEMENT

Wherever used in this endorsement: 1) "we", "us", "our", and "Insurer" means the insurance company that issued this policy; and 2) "you", "your", or "Insured", means the Named Corporation, Named Organization, Named Sponsor, Named Insured, First Named Insured, Insured's Representative, Insured or equivalent term stated in Item 1 of the Declarations Page; and 3) "Other Insured(s)" means all other persons or entities afforded coverage under the policy.

In consideration of the premium charged, it is understood and agreed that the cancellation provision of the Policy is deleted in its entirety and replaced by the following:

CANCELLATION

This policy may be cancelled by the named Insured by surrender thereof to the Insurer or any of its authorized agents or by mailing to the Insurer written notice stating when thereafter the cancellation shall be effective.

After coverage has been in effect for more than ninety (90) days or after the effective date of the renewal of the policy, a notice of cancellation shall not be issued by the Insurer unless it is based on at least one of the following reasons:

- a) Nonpayment of premium;
- b) Discovery of fraud or material misrepresentation in the procurement of the insurance;
- c) Discovery of willful or reckless acts or omissions on the part of the Named Insured or Other Insured(s) which increase any hazard insured against;
- d) The occurrence of a change in the individual risk which substantially increases any hazard insured against after insurance coverage has been issued or renewed, except to the extent the insurer reasonably should have foreseen the change or contemplated the risk in writing the contract;
- e) Loss of or substantial decrease in applicable reinsurance (if the superintendent has determined that reasonable efforts have been made to prevent the loss of, or substantial decrease in, the applicable reinsurance, or to obtain replacement coverage);
- f) Failure of an Insured or Other Insured(s) to correct material violations of safety codes or to comply with reasonable written loss control recommendations; or
- g) A determination by the director of insurance that the continuation of the Policy would create a condition that would be hazardous to the Insured or Other Insured(s) or to the public.

The notice of cancellation will be in writing, be mailed to the Insured at the last known address, and contain all of the following:

END 001

ENDORSEMENT# 1 (continued)

- The policy number;
- The date of notice;
- The effective date of cancellation (Except for nonpayment of premium, the effective date of cancellation shall not be less than thirty (30) days from the date of mailing the notice. When cancellation is for nonpayment of premium, the effective date of cancellation shall be no less than ten (10) days from the date of mailing the notice); and
- An explanation of the reason for cancellation.

In addition, the Policy is amended to include the following:

NONRENEWAL

The Insurer shall provide at least thirty (30) days written notice of its intention not to renew the policy at its expiration date.

NOTICE REQUIREMENTS FOR INCREASE IN PREMIUM

An insurer who intends to condition renewal upon a substantial increase in premium shall mail a notice of such intention to the agent of record and to the Insured at least thirty (30) days prior to the expiration date of the policy. If the notice is mailed less than thirty (30) days before the expiration date of the policy the Insured's coverage then in effect remains in effect until thirty (30) days after the date of mailing the notice.

OTHER DUTIES OF THE INSURER (APPLICABLE TO CLAIMS-MADE POLICIES ONLY)

The Insurer will provide the Insured the following information relating to this and any preceding claims-made Policy issued to the Insured by the Insurer during the previous three years:

1. A list or other record of each claim , not previously reported to any other insurer, of which the Insurer has been notified in accordance with the Policy terms and conditions. The Insurer will include the date and brief description of each claim if that information was in the notice the Insurer received.
2. A summary by policy year, of payments made and amounts reserved, stated separately, under any applicable General Aggregate Limit.

Amounts reserved are based on the Insurer's judgment. They are subject to change and should not be regarded as ultimate settlement values.

The Insured (or Other Insured(s)) must not disclose this information to any claimant or any claimant's representative without the Insurer's consent.

If the Insurer cancels or elects not to renew this Policy, the above information shall be provided no later than (30) thirty days before the date of policy termination. In other circumstances, the Insurer will provide this information only if the Insurer receives a written request from the Insured within (60) sixty days after the end of the policy period. In this case, the Insurer will provide this information within (45) forty-five days of receipt of the request.

The Insurer compiles claim information for its own business purposes and exercises reasonable care in doing so. In providing this information to the Insured, the Insurer makes no representations or warranties to the Insured, any Other Insureds, insurers, or others to whom this information is furnished by or on behalf of the Insured. Cancellation or non-renewal will be effective even if the Insurer inadvertently provides inaccurate information.

RETURN OF UNEARNED PREMIUM

END 001

ENDORSEMENT# 1 (continued)

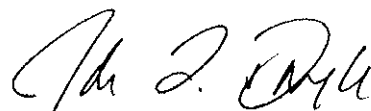
If the total premium has been paid and the policy is cancelled by the Insured, the Insurer may retain the premium at customary short rates for the time the policy has been in force and return to the Insured ninety percent (90%) of the unearned portion of the premium calculated on a pro rata basis.

If the premium is paid in installments and the policy is cancelled by the Insured, the Insurer may collect premium at customary short rates for the time the policy has been in force, said rates to be computed on the full term of insurance mentioned in the policy as charged by the Insurer. Upon receipt of such short rates, the Insurer will return all installment notes then unpaid and return to the Insured any premium collected in excess of the short rates.

If this policy is cancelled by the Insurer, the Insurer may retain the pro rata portion of the premium hereon.

Payment or tender of any unearned premium by the Insurer shall not be a condition of cancellation, but such payment shall be made as soon as practicable.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.



AUTHORIZED REPRESENTATIVE

END 001

ENDORSEMENT# 2

This endorsement, effective *12:01 a.m. September 29, 2009* forms a part of
policy number *04-188-65-80*
issued to *FAIR FINANCE CO*

by *National Union Fire Insurance Company of Pittsburgh, Pa.*

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DIRECTORS, OFFICERS AND PRIVATE COMPANY

OHIO AMENDATORY ENDORSEMENT

The Policy is hereby amended as follows:

Clause 10. **DISCOVERY CLAUSE**, is deleted in its entirety and replaced with the following:

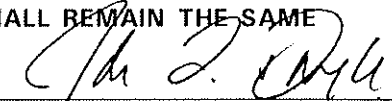
10. DISCOVERY CLAUSE

Except as indicated below, if the Named Entity or the Insurer shall cancel or refuse to renew this policy, the Named Entity shall have the right to a period of either one, two or three years following the effective date of such cancellation or nonrenewal upon payment of the respective "Additional Premium Amount" described below (herein referred to as the "Discovery Period") in which to give to the Insurer written notice of Claims first made against the Insureds during said Discovery Period for any Wrongful Act occurring prior to the end of the Policy Period and otherwise covered by this policy. The rights contained in this paragraph shall terminate, however, unless written notice of such election together with the additional premium due is received by the Insurer within 30 days of the effective date of cancellation or nonrenewal. The Additional Premium for the Discovery Period shall be fully earned at the inception of the Discovery Period. The Discovery Period is not cancelable. This clause and the rights contained herein shall not apply to any cancellation resulting from non-payment of premium.

The Additional Premium Amount for: (1) one year shall be 75% of the "full annual premium"; (2) two years shall be 150% of the "full annual premium"; (3) three years shall be a reasonable premium amount to be mutually agreed upon by the Insured and the Insurer. As used herein, "full annual premium" means the premium level in effect immediately prior to the end of the Policy Period.

In the event of a Transaction, as defined in Clause 12, the Named Entity shall have the right, within 30 days before the end of the Policy Period, to request an offer from the Insurer of a Discovery Period (with respect to Wrongful Acts occurring prior to the effective time of the Transaction) for a period of no less than three years or for such longer or shorter period as the Named Entity may request. The Insurer shall offer such Discovery Period pursuant to such terms, conditions and premium as the Insurer may reasonably decide. In the event of a Transaction, the right to a Discovery Period shall not otherwise exist except as indicated in this paragraph.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS SHALL REMAIN THE SAME



AUTHORIZED REPRESENTATIVE

END 002

78573 (7/01)

ENDORSEMENT# 3

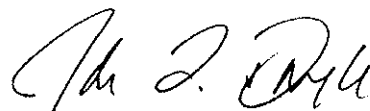
This endorsement, effective *12:01 a.m. September 29, 2009* forms a part of
policy number *04-188-65-80*
issued to *FAIR FINANCE CO*

by *National Union Fire Insurance Company of Pittsburgh, Pa.*

CAPTIVE INSURANCE COMPANY EXCLUSION

In consideration of the premium charged, it is hereby understood and agreed that the Insurer shall not be liable to make any payments for Loss in connection with any Claim(s) made against any Insured alleging, arising out of, based upon or attributable to the ownership, management, maintenance and/or control by the Company of any captive insurance company or entity, including but not limited to any Claim(s) alleging the insolvency or bankruptcy of the Named Entity as a result of such ownership, operation, management and control.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.



AUTHORIZED REPRESENTATIVE

END 003

ENDORSEMENT# 4

This endorsement, effective *12:01 a.m. September 29, 2009* forms a part of
policy number *04-188-65-80*
issued to *FAIR FINANCE CO*

by *National Union Fire Insurance Company of Pittsburgh, Pa.*

CLAUSE 5. AMENDED

In consideration of the premium charged, it is hereby understood and agreed that that Clause 5. LIMIT OF LIABILITY and REINSTATED LIMIT OF LIABILITY (FOR ALL LOSS - INCLUDING DEFENSE COSTS) is deleted in its entirety and replaced with the following:

5. LIMIT OF LIABILITY (FOR ALL LOSS - INCLUDING DEFENSE COSTS)

Defense Costs are not payable by the Insurer in addition to the Limit of Liability. Defense Costs are part of Loss and as such are subject to the applicable Limit of Liability for Loss.

The Limit of Liability stated in Item 4 of the Declarations is the limit of the Insurer's liability for all Loss, under Coverage A and Coverage B combined, arising out of all Claims first made against the Insureds during the Policy Period and the Discovery Period (if applicable); however, the Limit of Liability for the Discovery Period shall be part of, and not in addition to, the Limit of Liability for the Policy Period. Further, a Claim which is made subsequent to the Policy Period or Discovery Period (if applicable) which pursuant to Clause 7(b) or 7(c) is considered made during the Policy Period or Discovery Period shall also be subject to the one applicable aggregate Limit of Liability stated in Item 4 of the Declarations.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.



AUTHORIZED REPRESENTATIVE

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END 4

ENDORSEMENT# 5

This endorsement, effective *12:01 a.m. September 29, 2009* forms a part of
policy number *04-188-65-80*
issued to *FAIR FINANCE CO*

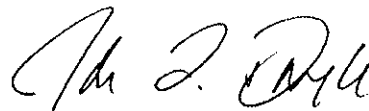
by *National Union Fire Insurance Company of Pittsburgh, Pa.*

CLAUSE 7(a) AMENDED - NOTICE FROM RISK MANAGER OR GENERAL COUNSEL

In consideration of the premium charged, it is hereby understood and agreed that Clause 7. NOTICE/REPORTING PROVISIONS, paragraph (a) is deleted in its entirety and replaced with the following:

- (a) The Company or the Insureds shall, as a condition precedent to the obligations of the Insurer under this policy, give written notice to the Insurer of a Claim made against an Insured as soon as practicable after the Claim is reported to or first becomes known by the risk manager or general counsel (or equivalent position) of the Company, but in all events a Claim must be reported no later than either:
- (1) anytime during the Policy Period or during the Discovery Period (if applicable); or
 - (2) within thirty (30) days after the end of the Policy Period or the Discovery Period (if applicable), as long as such Claim(s) is reported no later than thirty (30) days after the date such Claim was first made against an Insured.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.



AUTHORIZED REPRESENTATIVE

END 005

ENDORSEMENT# 6

This endorsement, effective *12:01 a.m. September 29, 2009* forms a part of
policy number *04-188-65-80*
issued to *FAIR FINANCE CO*

by *National Union Fire Insurance Company of Pittsburgh, Pa.*

CLAUSE 8 AMENDED (70/30)

In consideration of the premium charged, it is hereby understood and agreed that Clause 8 DEFENSE COSTS, SETTLEMENTS, JUDGMENTS (INCLUDING THE ADVANCEMENT OF DEFENSE COSTS) is hereby amended by deleting the last paragraph in its entirety and replacing it with the following:

Furthermore, in the event the Insureds do not consent to the first Settlement Opportunity within the time prescribed, then, subject to the applicable limit of liability, the Insurer's liability for all Loss on account of such Claim shall not exceed: (1) the amount for which the Insurer could have settled such Claim plus Defense Costs incurred as of the date such settlement was proposed in writing by the Insurer, ("Settlement Opportunity Amount"); plus (2) 70% of covered Loss in excess of such Settlement Opportunity Amount, it being a condition of this insurance that the remaining 30% of such Loss excess of the Settlement Opportunity Amount shall be carried by the Company and the Insureds at their own risk and be uninsured. Notwithstanding the foregoing, this paragraph shall not apply until the Settlement Opportunity Amount exceeds the retention amount stated in Item 5 of the Declarations.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.



AUTHORIZED REPRESENTATIVE

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END 6

ENDORSEMENT# 7

This endorsement, effective *12:01 a.m. September 29, 2009* forms a part of
policy number *04-188-65-80*
issued to *FAIR FINANCE CO*

by *National Union Fire Insurance Company of Pittsburgh, Pa.*

COMMISSIONS EXCLUSION

In consideration of the premium charged, it is hereby understood and agreed that the Insurer shall not be liable to make any payment for Loss in connection with any Claim(s) made against any Insured(s) alleging, arising out of, based upon, or attributable to:

- (i) Payments, commissions, gratuities, benefits or any other favors to or for the benefit of any full or part-time domestic or foreign government or armed services officials, agents, representatives, employees or any members of their family or any entity with which they are affiliated; or
- (ii) Payments, commissions, gratuities, benefits or any other favors to or for the benefit of any full or part-time officials, directors, agents, partners, representatives, principal shareholders, or owners or employees, or "affiliates" (as that term is defined in The Securities Exchange Act of 1934, including any officers, directors, agents, owners, partners, representatives, principal shareholders or employees of such affiliates) of any customers of the company or any members of their family or any entity with which they are affiliated; or
- (iii) Political contributions, whether domestic or foreign.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.



AUTHORIZED REPRESENTATIVE

END 007

ENDORSEMENT# 8

This endorsement, effective *12:01 a.m. September 29, 2009* forms a part of
policy number *04-188-65-80*
issued to *FAIR FINANCE CO*

by *National Union Fire Insurance Company of Pittsburgh, Pa.*

EMPLOYMENT PRACTICES COVERAGE DELETED

In consideration of the premium charged, it is hereby understood and agreed that, notwithstanding any other provision of this policy (including any endorsement attached hereto, whether such endorsement precedes or follows this endorsement in time or sequence), this policy shall not provide coverage for Loss arising out of an Employment Practices Claim. It is further agreed that all sections of the policy which relate to coverage for Employment Practices Claims are deleted in their entirety.

It is further understood and agreed that the policy is hereby amended as follows:

I.

Item 5. of the Declarations is deleted in its entirety and replaced with the following:

ITEM 5. RETENTION:

Judgments, Settlements and
Defense Costs (non- Indemnifiable Loss)

None

Securities Claims (other than private placements)
Judgments, Settlements and Defense Costs
(Company and Indemnifiable Loss)

\$25,000

for Loss arising from Claims
alleging the same Wrongful
Act or Related Wrongful Acts
(waivable under Clause 6 in
certain circumstances)

All Other Claims (including private placements)
Judgments, Settlements and Defense Costs
(Company and Indemnifiable Loss)

\$25,000

for Loss arising from Claims
alleging the same Wrongful
Act or Related Wrongful Acts
(waivable under Clause 6 in
certain circumstances)

II.

Clause 2. DEFINITIONS is amended as follows:

1. Definition (b) "Claim" is amended by deleting subparagraph (3) in its entirety and deleting the final paragraph thereof and replacing it with the following:

The term "Claim" shall include a Securities Claim.

END 008

ENDORSEMENT# 8 (continued)

2. Definition (t) "Wrongful Act" is amended by deleting the last sentence thereof, which reads as follows:

"With respect to an Employment Practices Claim, the term "Wrongful Act" shall include any Employment Practices Violation."

III.

Clause 4. EXCLUSIONS is amended as follows:

1. Exclusions (h), (i), (m), (n) and (q) are amended by deleting all references to exceptions for Employment Practices Claims.
2. Exclusions (o) and (p) are amended by deleting all references to exceptions for Claims for Retaliation.
3. The following exclusion shall apply and is added at the end of Clause 4:
(r) with respect to all Coverages: alleging an Employment Practices Violation(s).

IV.

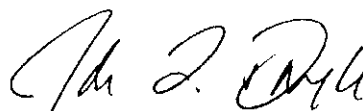
Clause 9. PRE-AUTHORIZED DEFENSE ATTORNEYS FOR DESIGNATED CLAIMS is amended by deleting the first sentence of the Clause and replacing it with the following:

"This clause applies only to a Securities Claim (hereinafter referred to as a "Designated Claim")."

V.

It is further understood and agreed that any reference(s) to an Employment Practices Claim or an Employment Practices Violation within the policy shall not operate to grant coverage for Loss alleging an Employment Practices Violation.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.



AUTHORIZED REPRESENTATIVE

END 008

ENDORSEMENT# 9

This endorsement, effective *12:01 a.m. September 29, 2009* forms a part of
policy number *04-188-65-80*
issued to *FAIR FINANCE CO*

by *National Union Fire Insurance Company of Pittsburgh, Pa.*

EXCLUSION (O) AMENDED ENDORSEMENT

In consideration of the premium charged, it is hereby understood and agreed that notwithstanding any other provision of this policy (including any endorsement attached hereto whether such endorsement precedes or follows this endorsement in time or sequence), Clause 4. EXCLUSIONS, is hereby amended by deleting Exclusion (o) in its entirety and replacing it with the following:

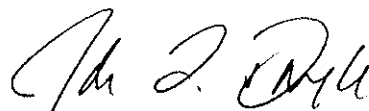
- (o) for violation(s) of any of the responsibilities, obligations or duties imposed by the Employee Retirement Income Security Act of 1974, the Fair Labor Standards Act (except the Equal Pay Act), the National Labor Relations Act, the Worker Adjustment and Retraining Notification Act, the Consolidated Omnibus Budget Reconciliation Act, the Occupational Safety and Health Act, any rules or regulations of the foregoing promulgated thereunder, and amendments thereto or any similar federal, state, local or foreign statutory law or common law;

It is acknowledged that Claims for violation(s) of any of the responsibilities, obligations or duties imposed by "similar federal, state, local or foreign statutory law or common law," as such quoted language is used in the immediately preceding paragraph, include, without limitation, any and all Claims which in whole or in part allege, arise out of, are based upon, are attributable to, or are in any way related to any of the circumstances described in any of the following:

- (1) the refusal, failure or inability of any Insured(s) to pay wages or overtime pay (or amounts representing such wages or overtime pay) for services rendered or time spent in connection with work related activities (as opposed to tort-based back pay or front pay damages for torts other than conversion);
- (2) improper deductions from pay taken by any Insured(s) from any Employee(s) or purported employee(s); or
- (3) failure to provide or enforce legally required meal or rest break periods;

Notwithstanding the foregoing, this exclusion (o) shall not apply to the extent that a Claim is for Retaliation.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.



AUTHORIZED REPRESENTATIVE

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END 009

ENDORSEMENT# 10

This endorsement, effective *12:01 a.m. September 29, 2009* forms a part of
policy number *04-188-65-80*
issued to *FAIR FINANCE CO*

by *National Union Fire Insurance Company of Pittsburgh, Pa.*

FAILURE TO EFFECT AND/OR MAINTAIN INSURANCE EXCLUSION

In consideration of the premium charged, it is hereby understood and agreed that the Insurer shall not be liable for any Loss in connection with any Claim(s) made against an Insured alleging, arising out of, based upon, attributable to, or in any way directly or indirectly relating to any failure or omission on the part of the Insureds or the Company to effect and/or maintain insurance.

ALL OTHER TERMS, CONDITIONS, AND EXCLUSIONS REMAIN UNCHANGED.



AUTHORIZED REPRESENTATIVE

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END 10

ENDORSEMENT# 11

This endorsement, effective *12:01 a.m. September 29, 2009* forms a part of
policy number *04-188-65-80*
issued to *FAIR FINANCE CO*

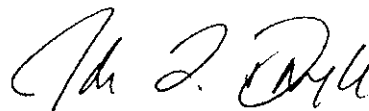
by *National Union Fire Insurance Company of Pittsburgh, Pa.*

FINAL DETERMINATION WORDING

In consideration of the premium charged, it is hereby understood and agreed that Clause
4. Exclusions (a), (b) and (c) are deleted in their entirety and replaced with the following:

- (a) arising out of, based upon or attributable to the gaining of any profit or advantage to which any judgment, final adjudication adverse to the Insured(s) or any alternative dispute resolution proceeding establishes the Insured(s) were not legally entitled;
- (b) arising out of, based upon or attributable to: (1) the purchase or sale by an Insured of securities of the Company within the meaning of Section 16(b) of the Securities Exchange Act of 1934 and amendments thereto or similar provisions of any state statutory law if any judgment, final adjudication or an alternative dispute resolution proceeding establishes that such 16(b) violation occurred; or (2) the payment to any Insured(s) of any remuneration without the previous approval of the stockholders of the Company, if any judgment, final adjudication adverse to the Insured(s) or any alternative dispute resolution proceeding establishes such payment to be illegal;
- (c) arising out of, based upon or attributable to the committing of any criminal, fraudulent or dishonest act, or any willful violation of any statute, rule or law, if any judgment, final adjudication adverse to the Insured(s) or any alternative dispute resolution proceeding establishes that such criminal, fraudulent, dishonest act or willful violation of any statute, rule or law occurred;

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.



AUTHORIZED REPRESENTATIVE

END 011

ENDORSEMENT# 12

This endorsement, effective *12:01 a.m. September 29, 2009* forms a part of
policy number *04-188-65-80*
issued to *FAIR FINANCE CO*

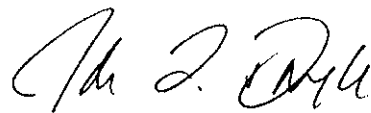
by *National Union Fire Insurance Company of Pittsburgh, Pa.*

"NO LIABILITY" PROVISION DELETED

In consideration of the premium charged, it is hereby understood and agreed that the
policy is hereby amended as follows:

- (1) The Definition of "No Liability" is hereby deleted in its entirety; and
- (2) The last paragraph of Clause 6. RETENTION CLAUSE is hereby deleted in its
entirety.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.



AUTHORIZED REPRESENTATIVE

END 012

ENDORSEMENT# 13

This endorsement, effective *12:01 a.m. September 29, 2009* forms a part of
policy number *04-188-65-80*
issued to *FAIR FINANCE CO*

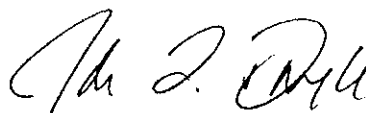
by *National Union Fire Insurance Company of Pittsburgh, Pa.*

**NOTICE/CLAIM REPORTING PROVISIONS CLAUSE
AMENDED TO REFLECT A SIXTY (60) DAY POST POLICY REPORTING PERIOD**

In consideration of the premium charged, it is hereby understood and agreed that the paragraph (a) subparagraph (2) of the Section of the policy entitled NOTICE/CLAIM REPORTING PROVISIONS is hereby deleted in its entirety and replaced with the following:

- (2) within sixty (60) days after the end of the Policy Period or the Discovery Period (if applicable), as long as such Claim is reported no later than sixty (60) days after the date such Claim was first made against an Insured.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.



AUTHORIZED REPRESENTATIVE

END 013

ENDORSEMENT# 14

This endorsement, effective *12:01 a.m. September 29, 2009* forms a part of
policy number *04-188-65-80*
issued to *FAIR FINANCE CO*

by *National Union Fire Insurance Company of Pittsburgh, Pa.*

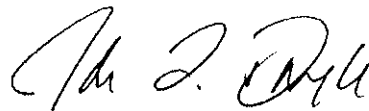
ORDER OF PAYMENTS ENDORSEMENT

In consideration of the premium charged, it is hereby understood and agreed that:

1. In the event of Loss arising from any Claim(s) for which payment is due under the provisions of this policy but which Loss, in the aggregate, exceeds the remaining available Limit of Liability of this policy, then this policy shall:
 - (i) first pay such Loss for which coverage is provided under Coverage A of the policy, then with respect to whatever remaining amount of the Limit of Liability is available after payment of such Loss,
 - (ii) then pay such Loss for which coverage is provided by Coverage B of the policy.
2. In the event of Loss arising from a Claim(s) for which payment is due under the provisions of this policy (including those circumstances described in part 1 of this endorsement), the Insurer shall at the written request of the Named Entity:
 - (i) first pay such Loss for which coverage is provided under Coverage A of the policy, then
 - (ii) either pay or hold payment for such Loss for which coverage is provided by Coverage B of the policy.

In the event that the Insurer withholds payment under Coverage B of the policy pursuant to the above request, then the Insurer shall at any time in the future, at the request of the Company, release such Loss payment to the Company, or make such Loss payment directly to an individual director or officer in the event of covered Loss under any Claim(s) covered under this policy pursuant to Coverage A of the policy.
3. Nothing in this endorsement shall be construed to increase the Limit of Liability of the Insurer under this policy which such Limit of Liability shall remain the maximum liability of the Insurer under all Claims under all Coverage under this policy combined.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.



AUTHORIZED REPRESENTATIVE

END 014

ENDORSEMENT# 15

This endorsement, effective *12:01 a.m. September 29, 2009* forms a part of
policy number *04-188-65-80*
issued to *FAIR FINANCE CO*

by *National Union Fire Insurance Company of Pittsburgh, Pa.*

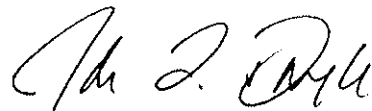
PARENT EXCLUSION

In consideration of the premium charged, it is hereby understood and agreed that the Insurer shall not be liable to make any payment for Loss in connection with any Claim(s) made by or on behalf of the following parent organization ("Parent") or any directors, officers or employees thereof; or any Claim which is brought by any security holder of the Company, whether directly or derivatively, unless such security holder's Claim is instigated and continued totally independent of, and totally without the solicitation of, or assistance of, or active participation of, or intervention of, the Parent or any directors, officers or employees thereof.

PARENT ORGANIZATION

FAIR HOLDINGS, INC.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.



AUTHORIZED REPRESENTATIVE

END 015

ENDORSEMENT# 16

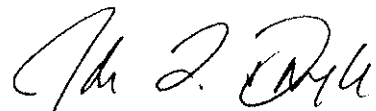
This endorsement, effective *12:01 a.m. September 29, 2009* forms a part of
policy number *04-188-65-80*
issued to *FAIR FINANCE CO*

by *National Union Fire Insurance Company of Pittsburgh, Pa.*

PROFESSIONAL ERRORS & OMISSIONS EXCLUSION

In consideration of the premium charged, it is hereby understood and agreed that the Insurer shall not be liable to make any payment for Loss in connection with any Claim(s) made against any Insured(s) alleging, arising out of, based upon or attributable to any Insured(s)' performance of or failure to perform professional services for others for a fee, or any act(s), error(s) or omission(s) relating thereto.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.



AUTHORIZED REPRESENTATIVE

END 016

ENDORSEMENT# 17

This endorsement, effective *12:01 a.m. September 29, 2009* forms a part of
policy number *04-188-65-80*
issued to *FAIR FINANCE CO*

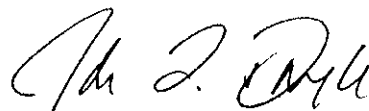
by *National Union Fire Insurance Company of Pittsburgh, Pa.*

**SEVERABILITY OF THE APPLICATION AMENDATORY ENDORSEMENT
(FULL SEVERABILITY FOR ALL INSUREDS)**

In consideration of the premium charged, it is hereby understood and agreed that the second paragraph of Clause 19. **REPRESENTATIONS AND SEVERABILITY** is hereby deleted in its entirety and replaced with the following:

The Insureds agree that in the event that the particulars and statements contained in the application are not accurate and complete, then this Policy shall be void as to any Insured who knew as of the inception date of the Policy Period of the facts that were not accurately and completely disclosed in the application (whether or not such Insured knew that such facts were not accurately and completely disclosed in the Application). Solely for purposes of determining whether the policy shall be void as to an Insured, such aforesaid knowledge possessed by any Insured shall not be imputed to any other Insured.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.



AUTHORIZED REPRESENTATIVE

END 017

ENDORSEMENT# 18

This endorsement, effective *12:01 a.m. September 29, 2009* forms a part of
policy number *04-188-65-80*
issued to *FAIR FINANCE CO*

by *National Union Fire Insurance Company of Pittsburgh, Pa.*

**NOTICE OF CLAIM
(REPORTING BY E-MAIL)**

In consideration of the premium charged, it is hereby understood and agreed as follows:

1. *Email Reporting of Claims:* In addition to the postal address set forth for any Notice of Claim Reporting under this policy, such notice may also be given in writing pursuant to the policy's other terms and conditions to the Insurer by email at the following email address:

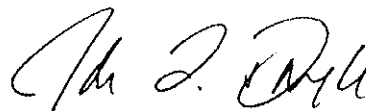
c- claim@aig.com

Your email must reference the policy number for this policy. The date of the Insurer's receipt of the emailed notice shall constitute the date of notice.

In addition to Notice of Claim Reporting via email, notice may also be given to the Insurer by mailing such notice to: c- Claim for Financial Lines, AIG Domestic Claims, Inc., 175 Water Street, 9th Floor, New York, New York 10038 or faxing such notice to (866) 227- 1750.

2. *Definitions:* For this endorsement only, the following definitions shall apply:
 - (a) "Insurer" means the "Insurer," "Underwriter" or "Company" or other name specifically ascribed in this policy as the insurance company or underwriter for this policy.
 - (b) "Notice of Claim Reporting" means "notice of claim/circumstance," "notice of loss" or other reference in the policy designated for reporting of claims, loss or occurrences or situations that may give rise or result in loss under this policy.
 - (c) "Policy" means the policy, bond or other insurance product to which this endorsement is attached.
3. This endorsement does not apply to any Kidnap & Ransom/Extortion Coverage Section, if any, provided by this policy.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.



AUTHORIZED REPRESENTATIVE

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END 018

ENDORSEMENT# 19

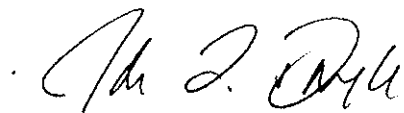
This endorsement, effective *12:01 a.m. September 29, 2009* forms a part of
policy number *04-188-65-80*
issued to *FAIR FINANCE CO*

by *National Union Fire Insurance Company of Pittsburgh, Pa.*

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COVERAGE TERRITORY ENDORSEMENT

Payment of loss under this policy shall only be made in full compliance with all United States of America economic or trade sanction laws or regulations, including, but not limited to, sanctions, laws and regulations administered and enforced by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC").



AUTHORIZED REPRESENTATIVE

END 019

ENDORSEMENT# 20

This endorsement, effective 12:01 a.m. September 29, 2009
policy number 04-188-65-80
issued to FAIR FINANCE CO

forms a part of

by National Union Fire Insurance Company of Pittsburgh, Pa.

FORMS INDEX ENDORSEMENT

The contents of the Policy is comprised of the following forms:

FORM NUMBER	EDITION DATE	FORM TITLE
68461	08/97	PRIVATE EDGE ADMITTED DEC
81285	01/03	TRIA DEC DISCLOSURE FORM
68462	08/97	PRIVATE EDGE ADMITTED POLICY PAGES
	06/08	SECURITIES CLAIM PANEL COUNSEL LIST
	06/08	EMPLOYMENT PRACTICES CLAIM PANEL COUNSEL
97531	03/08	OHIO AMENDATORY - CANCELLATION/NONRENEWAL
78573	07/01	OH AMENDATORY ENDORSEMENT - DIRECTORS, OFFICERS AND PRIVATE COMPANY
82462	06/03	CAPTIVE INSURANCE COMPANY
		CLAUSE 5. AMENDED
86856	11/04	CLAUSE 7(A) AMENDED - NOTICE FROM RISK MANAGER OR GENERAL COUNSEL
		CLAUSE 8 AMENDED (70/30)
82543	06/03	COMMISSIONS EXCLUSION
82475	06/03	EMPLOYMENT PRACTICES COVERAGE DELETED
86885	03/08	EXCLUSION (O) AMENDED (FLSA)
		FAILURE TO EFFECT AND/OR MAINTAIN INSURANCE EXCLUSION
82480	06/03	FINAL DETERMINATION WORDING
82492	06/03	NO LIABILITY PROVISION DELETED
86915	11/04	NOTICE/CLAIM REPORTING PROVISIONS CLAUSE AMENDED TO REFLECT A SIXTY (60) DAY POST POLICY REPORTING PERIOD
90373	01/06	ORDER OF PAYMENTS ENDORSEMENT
82494	06/03	PARENT EXCLUSION
82503	06/03	PROFESSIONAL ERRORS & OMISSIONS EXCLUSION

END 020

ENDORSEMENT# 20

This endorsement, effective *12:01 a.m. September 29, 2009*
policy number *04-188-65-80*
issued to *FAIR FINANCE CO*

forms a part of

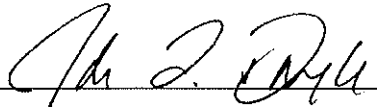
by *National Union Fire Insurance Company of Pittsburgh, Pa.*

FORMS INDEX ENDORSEMENT

The contents of the Policy is comprised of the following forms:

FORM NUMBER	EDITION DATE	FORM TITLE
90374	01/06	SEVERABILITY OF THE APPLICATION (FULL SEVERABILITY FOR ALL INSURED)
99758	08/08	NOTICE OF CLAIM (REPORTING BY E-MAIL)
89644	07/05	COVERAGE TERRITORY ENDORSEMENT (OFAC)
78859	10/01	FORMS INDEX ENDORSEMENT

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.



AUTHORIZED REPRESENTATIVE

END 020

National Union Fire Insurance Company of Pittsburgh, Pa.
CLAIM REPORTING INFORMATION SHEET

Reporting Under Policy/Bond Number: 04-188-65-80

Type Of Coverage: DOP0897

Insured's Name, As Given On Policy Declaration(Face Page): _____

FAIR FINANCE CO

Contact Person: _____

Title: _____

Phone:_(_____)_____-_____-Ext _____

Case or Claimant Name: _____

If The Party Involved Is Different From "Insured" Name (As Given On The Policy Declaration) State

Relationship: _____

Insurance Broker/Agent: AMWINS BROKERAGE OF MICHIGAN INC

Address: 2851 CHARLEVOIX DR SE #120
GRAND RAPIDS, MI 49546-5802

Contact: JUNE WYSOCKI

Phone: _____

Please Provide The Information Requested Above So That We Can Expedite Our Service To You.

Send Notice Of Claims To:

c- Claim for Financial Lines
AIG Domestic Claims, Inc.
175 Water Street
9th Floor
New York, NY 10038

Phone: (888) 602- 5246
Fax: (866) 227- 1750
Email: c- Claim@AIG.com

centralized Customer Link and Information Management

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE:	)	CASE NO. 10-50494
)	
FAIR FINANCE COMPANY	)	CHAPTER 7
)	
)	
	)	CHIEF JUDGE: MARILYN SHEA-STONUM

NOTICE OF APPOINTMENT OF INTERIM CHAPTER 7 TRUSTEE

Daniel M. McDermott, the United States Trustee has appointed Brian A. Bash, Esq., of Baker & Hostetler LLP, with offices at 1900 East 9th Street, Suite 3200, Cleveland, Ohio 44114, to serve as the interim Chapter 7 Trustee pursuant to the Court's February 19, 2010 Entry of Judgment. The Court's Entry of Judgment directed the United States Trustee to appoint an interim trustee pursuant to 11 U.S.C. § 303(g) after a hearing granting the petitioning creditors' Emergency Motion to Appoint Interim Trustee, which was held on February 18, 2010.

Mr. Bash has advised the United States Trustee that he is ready, willing and able to assume the duties and responsibilities of the interim trustee. To the best of his knowledge, he has no known conflicts, but will continue to review and investigate any possible conflicts, reporting such if they become known. Mr. Bash is currently a member of the Cleveland panel of Chapter 7 Trustees.

DANIEL M. McDERMOTT
UNITED STATES TRUSTEE, REGION 9

By: /s/ Lenore Kleinman
Lenore Kleinman, Esq. (#0036778)
Trial Attorney
Office of the U.S. Trustee
H.M. Metzenbaum U.S. Courthouse
201 Superior Avenue, East
Suite 441
Cleveland, Ohio 44114-1240
(216) 522-7800 Ext. 237
Fax (216) 522-7193
Lenore.Kleinman@usdoj.gov

February 19, 2010
Date of Appointment

EXHIBIT 2

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION AT AKRON**

IN RE:)	CASE NO. 10-50494
)	
FAIR FINANCE COMPANY	)	ADVERSARY NO. 10-5038
)	
Debtor	)	CHAPTER 7
)	
THOMAS E. McKIBBEN, SR., and NELLIE M. McKIBBEN, Individually and on Behalf of All Others Similarly Situated	)	JUDGE MARILYN SHEA-STONUM
)	
Plaintiffs)	
)	
vs.)	
	)	ANSWER AND CROSSCLAIMS OF
FAIR FINANCE COMPANY, et al.	)	THE DEFENDANT, BRIAN A. BASH,
	)	CHAPTER 7 TRUSTEE FOR THE
Defendants	)	ESTATE OF FAIR FINANCE COMPANY

ANSWER

Now comes the Defendant, Brian A. Bash, the Chapter 7 Trustee, substituted in the within proceeding for the original Defendant, Fair Finance Company (the "trustee"), and, for his Answer and Crossclaim to the First Amended Verified Class Action Complaint filed by Thomas and Nellie McKibben ("Plaintiffs") in the Summit County Court on February 4, 2010 in case number CV 2009-12-8732 removed to the U.S. Bankruptcy Court by Notice of Removal filed on April 2, 2010, states as follows:

1. Admits that Fair Finance Company began operations in 1934 by certain members of the Fair Family and that it was a successful business for many years, but denies the balance of the allegations contained in paragraph 1 of Plaintiffs' complaint.
2. Admits the allegations contained in paragraph 2 of Plaintiffs' complaint, but denies, for want of knowledge, the intent of the Defendants, Timothy S. Durham and James F. Cochran or other allegations not properly framed or alleged.

3. Admits the allegations contained in paragraph 3, but affirmatively states that, with respect to this answering Defendant, such claims must be filed as claims in the bankruptcy estate of Fair Finance Company. The trustee is evaluating the extent of damages and claims to creditors and further states that the appointment of receiver has been mooted by the appointment of a bankruptcy trustee.

4. Denies, for want of knowledge, the allegations contained in paragraph 4 of Plaintiffs' complaint.

5. Admits the allegations contained in paragraph 5 of Plaintiffs' complaint.

6. Admits the allegations contained in paragraph 6 of Plaintiffs' complaint.

7. Admits the allegations contained in paragraph 7 of Plaintiffs' complaint.

8. Admits the allegations contained in paragraph 8 of Plaintiffs' complaint.

9. Admits the allegations contained in paragraph 9 of Plaintiffs' complaint.

10. On information and belief, admits the allegations contained in paragraph 10 Plaintiffs' complaint.

11. On information and belief, admits the allegations contained in paragraph 11 Plaintiffs' complaint.

12. On information and belief, admits the allegations contained in paragraph 12 Plaintiffs' complaint.

13. On information and belief, admits the allegations contained in paragraph 13 Plaintiffs' complaint.

14. On information and belief, admits the allegations contained in paragraph 14 Plaintiffs' complaint.

15. On information and belief, admits the allegations contained in paragraph 15 Plaintiffs' complaint.

16. On information and belief, admits the allegations contained in paragraph 16 Plaintiffs' complaint.

17. On information and belief, admits the allegations contained in paragraph 17 Plaintiffs' complaint.

18. Denies, for want of knowledge, the allegations contained in paragraph 18 of Plaintiffs' complaint.

19. Denies the allegations contained in paragraph 19 and affirmatively states that jurisdiction is vested in the United States Bankruptcy Court for the Northern District of Ohio Eastern Division at Akron.

20. Denies the allegations contained in paragraph 20 except that he admits the truth of the averment that the Defendants conducted activity in Summit County, Ohio that gave rise to certain claims, jurisdiction and venue in the Northern District of Ohio.

21-26. Denies, for want of knowledge, the allegations contained in paragraphs 21, 22, 23, 24, 25, and 26 of Plaintiffs' complaint.

27-40. Upon information and belief, Admits the allegations contained in paragraphs 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, and 40 of Plaintiffs' complaint.

41. Denies, for want of knowledge, the allegations contained in paragraph 41.

42-53. Upon information and belief, Admits the allegations contained in paragraphs 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, and 53 of Plaintiffs' complaint.

54. Denies, for want of knowledge, the allegations contained in paragraph 54 of Plaintiffs' complaint.

55. Denies, for want of knowledge, the allegations contained in paragraphs 55.

56. Admits and denies, in the same manner and order as hereinabove set forth, the allegations contained in paragraph 56.

57. Repeat responses to the allegations contained in paragraph 57.

58-59. Upon information and belief, Admit the allegations contained in paragraphs 58-59 of Plaintiffs' complaint.

60. Repeat responses to the allegations contained in paragraph 60.

61-62. Upon information and belief, Admits the allegations contained in paragraphs 61-62.

63. Repeat responses to the allegations contained in paragraph 63.

64-67. Upon information and belief, Admit the allegations contained in paragraphs 64 and 67 of Plaintiffs' complaint.

68. Repeat responses to the allegations contained in paragraph 68.

69. Admits the allegations contained in paragraph 69.

70. Denies, for want of knowledge, the allegations contained in paragraphs 70.

71. Repeat responses to the allegations contained in paragraph 71.

72. Denies, for want of knowledge, the allegations contained in paragraphs 72.
73. Repeat responses to the allegations contained in paragraph 73.
74. Admits the allegations contained in paragraph 74 of Plaintiffs' complaint.
75. Admits the allegations contained in paragraph 75 of Plaintiffs' complaint.
76. Denies the allegations contained in paragraph 76 in that the Fair Finance Company, the Debtor acknowledges the claims of investment certificate holders.
77. Admits that damages are owed to certificate holders for their investments.
78. Repeat responses to the allegations contained in paragraph 78.
79. Admits the allegations contained in paragraph 79 of Plaintiffs' complaint.
80. Denies, for want of knowledge, the allegations contained in paragraphs 80.
81. Denies, for want of knowledge, the allegations contained in paragraphs 81.
82. Repeat responses to the allegations contained in paragraph 82.
- 83-85. Denies, for want of knowledge, the allegations contained in paragraphs 83-85.
86. Repeat responses to the allegations contained in paragraph 86.
- 87-92. Denies, for want of knowledge, the allegations contained in paragraphs 87-92.
93. Denies the allegations contained in paragraph 93.
94. Repeat responses to the allegations contained in paragraph 86.
- 95-96. Denies, for want of knowledge, the allegations contained in paragraphs 95-96.
97. Upon information and belief, Admits the allegations contained in paragraph 97.
98. Admits the allegations contained in paragraph 98 of Plaintiffs' complaint.
99. Denies, for want of knowledge, the allegations contained in paragraph 99.
- 100-101. Denies, for want of knowledge, the allegations contained in paragraphs 100-101.
102. Repeat responses to the allegations contained in paragraph 102.
- 103-108. Denies, for want of knowledge, the allegations contained in paragraphs 103-108.
109. Repeat responses to the allegations contained in paragraph 109.
- 110-115. Denies, for want of knowledge, the allegations contained in paragraphs 110-115.

**CROSSCLAIMS AGAINST THE DEFENDANTS OBSIDIAN ENTERPRISES, INC.,
FAIR HOLDINGS, INC., DC INVESTMENTS, LLC, TIMOTHY S. DURHAM, JAMES
F. COCHRAN, DANIEL S. LAIKIN, JEFFREY L. EGLEN, KEITH E. SCHAFFTER,
RICK D. SNOW, AND JOHN J. HEAD**

Now comes the plaintiff-Cross-claimant, Brian A. Bash, Trustee (the “trustee”), and, for his cross-claim against the Defendants Obsidian Enterprises, Inc. (“Obsidian”), Fair Holdings, Inc., DC Investments, LLC, Timothy S. Durham, James F. Cochran, Daniel S. Laikin, Jeffrey L. Eglen, Keith E. Schaffter, Rick D. Snow, John J. Head, states as follows:

PARTIES

1. Pursuant to the Order Approving Compromise Among the Trustee, Fair Holdings, Inc. and DC Investments, LLC, dated June 16, 2010 [Docket No. 188] (the “Compromise Order”), Fair Holdings Inc. and DC Investments, LLC have agreed to assign all right, title and interest in and to all of their assets to the bankruptcy estate and trustee, therefore no further benefit to the estate would be gained from pursuing further recovery from these parties.

2. The plaintiff-cross-claimant, Brian A. Bash, is the duly appointed Chapter 7 trustee for Fair Finance Company and seeks to be named as the real party in interest in this case by separate motion.

3. The remaining “Defendants,” Obsidian Enterprises, Inc. (“Obsidian”), Fair Holdings, Inc., DC Investments, LLC, Timothy S. Durham, James F. Cochran, Daniel S. Laikin, Jeffrey L. Eglen, Keith E. Schaffter, Rick D. Snow, and John J. Head are named as Defendants to the plaintiff-cross-claimant, Brian A. Bash.

FACTUAL BACKGROUND

4. The Debtor in this case, Fair Finance Company d/b/a Fair Financial Services (“Debtor,” or “Fair”) is an Ohio Corporation, not publicly traded, founded in 1934, and had operated through several locations in Northeast Ohio until it suspended its regular business operations in November 2009, due to the seizure of computers and records by the Federal Bureau of Investigation (“FBI”) on suspicion of fraud.

5. The Debtor is a financial institution licensed under the laws of the State of Ohio, is regulated by the Ohio Division of Securities, and has historically sold investment certificates of various dollar denominations with various time terms (six months up to five years) with varied interest rates to investors who must be Ohio residents at the time of purchase.

6. Investment Certificates, or notes, were sold and issued to each certificate holder ("investor"), and each note sets forth the terms of the agreement between Fair and investor and were numbered in series.

7. There are currently approximately two hundred million dollars in face amount of certificates outstanding to over five thousand investors.

8. The investors are unsecured creditors of the Debtor, and not equity owners, and the Debtor has various other creditors of various classes and types.

9. On the date of the petition in this case, February 8, 2010, some certificates had matured and would have been redeemable by investors. Since that date certificates have continually matured.

10. Fair Holdings Inc., an Ohio corporation, is the sole shareholder of the Debtor's stock making it the Debtor's parent company. Its assets have been assigned to the Debtor and are assets of the estate pursuant to the Compromise Order.

11. DC Investments, LLC, is an Indiana company and is the parent company for Fair Holdings Inc., and its assets have been assigned to the Debtor and are assets of the estate pursuant to the Compromise Order.

12. The Directors of the Debtor included, Timothy Durham and James Cochran, both of Indiana.

13. The Directors of Fair Holdings Inc. included Timothy Durham and James Cochran, both of Indiana, and possibly unknown others.

14. The members of DC Investments, LLC included Timothy Durham and James Cochran, both of Indiana, and possibly unknown others.

15. Obsidian is a related party to the Debtor, is an "insider" within the meaning of 11 U.S.C. § 101(31) or is part of a "control group" or "alter ego" of the Debtor or under the direction and control of one or more of the various Defendants named in this cross-claim.

16. Obsidian received assets, funds and loans from the Debtor.

17. Other Defendants named herein, including but not limited to Timothy S. Durham, James F. Cochran and Daniel S. Laikin are "insiders" within the meaning of 11 U.S.C. § 101(31), are part of a "control group" or are "alter egos" of the Debtor.

18. Timothy S. Durham, James F. Cochran, Daniel S. Laikin, Jeffrey L. Eglen, Keith E. Schaffter, Rick D. Snow, John J. Head, Charles James, Jr. and John Does 1-20 were directors, officers, employees, or persons in control of the Debtor or its assets of the filing of the bankruptcy petition on February 8, 2010.

19. The named Defendants to this cross-claim directed, managed or controlled the assets and business of the Debtor, by actions taken or direction given, and as a consequence controlled the funds received from investors or creditors of this bankruptcy estate.

20. The named Defendants by actions taken or direction given caused certain "representations" to be made to the Ohio Division of Securities, the investors, and the general public regarding the business of the Debtor and the use of investors funds, including but not limited to the use of investment circulars, brochures, filings and other writings and representations made since the year 2002.

21. The purpose of Defendants' representations was to cause investors to invest funds, loan money, or supply dollars in United States currency for the use and benefit of the named Defendants, including many personal loans to Timothy S. Durham, James F. Cochran, Daniel S. Laikin and other Defendants.

22. These personal loans are identified in some cases in investment circulars or brochures, filed with the Ohio Division of Securities, and supplied to investors, an example of which is attached as Exhibit 1.

23. The investors reasonably relied upon these representations when making decisions to invest funds or loan money to the Debtor.

24. The representations were materially false, omitted important facts, or were designed to defraud investors of their investment dollars.

25. The named Defendants by actions taken or direction given caused the funds received from investors to be paid or transferred either electronically or by other means from the assets of the Debtor to other entities, including affiliated entities, insiders or persons or companies affiliated with the Debtor or within the control group or alter ego of the Debtor, including but not limited to the Defendants named herein or companies they controlled or were affiliated with.

26. The named Defendants were "fiduciaries" or responsible persons of trust over the assets of the Debtor and the funds of investors as defined under Ohio law and as a consequence owed a duty of care to investors and creditors.

27. The transfer of the Debtor's funds and assets to other Defendants, caused by the actions or direction of Defendants, was unlawful and wrongful, causing a loss of the investor's funds and damages to creditors and a depletion and loss of the assets of the Debtor, resulting in an insolvent estate and diminished funds from which to repay creditors of the Debtor.

28. The investment funds solicited by the Debtor from investors were loaned to or used by the Defendants or were loaned or transferred to others, mainly insiders, affiliates and related entities, including personal loans to Durham and Cochran, both of who were officers and directors of the Debtor.

29. The Debtor generally did not collect regular payments on loans, including interest and principal payments, to related companies, affiliated companies or officers and owners, including but not limited to Durham, Cochran, and other named Defendants.

30. The Defendants, including but not limited to Durham and Cochran, used the Debtor to enrich themselves and for their own personal use and benefit.

31. The Defendants, including but not limited to Durham and Cochran, transferred Debtor's funds to related companies or affiliated entities, which were further transferred or loaned to other companies or affiliated entities.

32. The Defendants Durham and Cochran controlled the Debtor, its parent, Fair Holdings, and DCI, and owned and controlled Obsidian and Diamond Investments LLC and other unnamed entities that received Debtor's funds from Defendants.

33. The Defendants caused funds to further be transferred or loaned to Obsidian or Diamond Investments LLC, and the funds were loaned by Obsidian or Diamond Investments LLC or used to make asset purchases, including purchase of stock in other companies, most of which are affiliated with one or more of the Defendants.

34. The amount of funds transferred from the Debtor to other entities or individuals owned, controlled or affiliated with the Defendants was in an amount of several hundred million dollars and occurred several hundred times principally but not exclusively by wire transfer.

35. The trustee has discovered emails reflecting the manner in which the Debtor's funds were diverted and used by other related entities. For example, on September 24, 2008 after an

employee of the Debtor had reported that the cash position of the Debtor had deteriorated by \$871,554, Obsidian responded and requested wire transfers to Fair Holdings of \$165,000, to Obsidian of \$8,000 and to DW Leasing Inc. of \$4,000 further stating: "I hate to ASK!!!! (you know I do – right???) Just following orders ---- Can you confirm you have recvd the funding today and if so wire to me 177,000 today...". An employee of the Debtor responded "You're killing us!!! Don't shoot the messenger...right ☺I have not received the money yet, so I cannot send you guys anything yet." Another example on December 15, 2008: "Cash is sooo bad and I know I am killing you with the request!!!! BUT --- directly from the boss man --- can you please wire to Fair Holdings today 46,000?...". Upon information and belief, the "boss man" in this context was Timothy Durham or someone operating under his direction.

36. After one of the Debtor's employees complained that Debtor should not wire \$12,000 out because money would be tight in the next week, Obsidian executive Jeff Osler responded that: "Tim has been watching the cash and asked me to have you send the entire 12. He stated you have 255k in invests and drew 1M and you could spare the 12. Just passing the message along. Let me know when you have sent it."

37. When Doug DeRose, a Vice President and Controller of Debtor, suggested that Debtor use excess cash to pay off a \$120,000 investment certificate which had come due, Durham instructed him to "hold the bank check till next week," apparently because "we need 85[thousand dollars] at [Obsidian] today."

38. Many of these requests for transfer of funds were approved by Durham and Cochran and either explicitly rely on Durham's authority or imply his approval should be assumed. At least one employee was contacted personally by Durham and reprimanded for consulting Fair's President, John Head, seeking approval of requested transfers to entities owned or controlled by Durham.

39. Some affiliated entities, including U.S. Rubber Reclaiming, Inc., have alleged that although loans from the Debtor were approved or expected, funds were not received, suggesting that some loans or transactions may have been a subterfuge for improper diversion of the Debtor's assets or cash proceeds to Durham or were used to retire other debt unrelated to Debtor's businesses. The diversion of resources impaired the Debtor's ability to repay investors.

40. In several instances security interests in collateral for loans or transfers from the Debtor, Fair Holdings, Inc. and DC Investments, LLC to related parties were not properly

perfected, and such collateral was thereafter encumbered with other liens to the detriment of the Debtor.

41. Computer server information of the Debtor was shared with Obsidian and other entities.

COUNT I

Director Liability- Timothy Durham, James Cochran, Daniel S. Laikin, and Jeffrey L. Eglen.

42. Plaintiff-cross-claimant hereby incorporates the preceding cross-claim paragraphs as if fully rewritten herein.

43. Timothy Durham, James Cochran, Daniel S. Laikin and Jeffrey L. Eglen, in their capacity as owners, directors and officers of Fair, Fair Holdings, Inc. and DC Investments, LLC, authorized and directed the disbursement of Fair's funds to Timothy Durham and James Cochran. These disbursements were, in form, purported loans to Timothy Durham and James Cochran.

44. Timothy Durham and James Cochran, in their capacity as owners, directors and officers of Fair, Fair Holdings, Inc. and DC Investments, LLC, authorized and directed the extension of the maturity date on several of these "loans" multiple times.

45. The lending of funds to Timothy Durham and James Cochran, coupled with Fair's, Fair Holdings, Inc.'s and DC Investments LLC's failure to pursue collection of the funds, caused Fair to default on its own obligations, which led to Fair being placed into an involuntary bankruptcy proceeding.

46. Timothy Durham, James Cochran, Daniel S. Laikin and Jeffrey L. Eglen did not perform their duties as directors of Fair, Fair Holdings, Inc. and DC Investments, LLC in good faith, in a manner they reasonably believed to be in or not opposed to the best interests of the corporation, and with the care that an ordinarily prudent person in a like position would use

under similar circumstances, causing damages to Fair, Fair Holdings, Inc. and DC Investments, LLC in excess of \$200,000,000.

COUNT II

Conversion- Timothy Durham, James Cochran and Obsidian

47. Plaintiff-cross-claimant hereby incorporates the preceding cross-claim paragraphs as if fully rewritten herein.

48. Plaintiff-cross-claimant had the right to certain, identifiable, sequestered sums of money received from its investors. Defendants Timothy Durham, James Cochran and Obsidian had an obligation to keep intact these sequestered sums and to deliver said sums to Fair to be returned to its investors.

49. Defendant Obsidian obtained a portion of Fair's funds through wrongful acts or disposition of Fair's property rights, including by receipt of Fair's funds as a result of the intentional misrepresentation to Fair and its investors that they would be invested in legitimate businesses.

50. Defendant Obsidian did not invest Fair's funds in legitimate business opportunities. Rather, it funneled Fair's funds into businesses mostly, if not solely, owned by, controlled by or affiliated with Defendant Timothy Durham, causing damages to Fair in excess of \$29,000,000.

51. Defendants Timothy Durham and James Cochran obtained a portion of Fair's funds through wrongful acts or disposition of Fair Finance Company's property rights, including the intentional misrepresentation to Fair that they intended to repay or cause to be repaid amounts transferred from Fair.

52. Defendants Timothy Durham and James Cochran, and other Defendants did not

intend to repay funds they took from Fair and did not repay said funds, causing damages to Fair in excess of \$200,000,000.

COUNT III

Piercing the Corporate Veil- Timothy Durham and James Cochran

53. Plaintiff-cross-claimant hereby incorporates the preceding cross-claim paragraphs as if fully rewritten herein.

54. Defendants Timothy Durham and James Cochran exercised complete control over Fair, Fair Holdings, Inc. and DC Investments, LLC, such that these entities had no separate mind, will, or existence of their own.

55. Defendants Timothy Durham and James Cochran exercised such complete control over Fair, its assets, Obsidian, Diamond Investments LLC and other entities for the purpose of defrauding Plaintiff-cross-claimant of substantial sums of money and converting said sums of money as set forth in Count II of this cross-claim.

56. The control of Fair, its assets, Obsidian, Diamond Investments LLC—and other entities by Defendants Timothy Durham and James Cochran and their wrongful acts resulted in injury or unjust loss to the Plaintiff-cross-claimant in an amount in excess of \$200,000,000.

COUNT V

Alter Ego- Timothy Durham, Obsidian, Fair Holdings, Inc. and DC Investments, Inc.

57. Plaintiff-cross-claimant hereby incorporates the preceding cross-claim paragraphs as if fully rewritten herein.

58. Defendant Timothy Durham exercised complete control over Obsidian, DC Investments, LLC and Fair Holdings, Inc., such that these entities have no separate mind, will, or existence of their own.

59. Defendant Timothy Durham exercised such complete control over Obsidian, DC Investments, LLC and Fair Holdings, Inc. for the purpose of defrauding Fair of substantial sums of money and converting said sums of money. Timothy Durham caused Obsidian, DC Investments, LLC and Fair Holdings, Inc. to receive certain sums of money from Fair based on false representations that said sums would be invested in legitimate business and returned to Fair along with interest. Obsidian, DC Investments, LLC and Fair Holdings, Inc. never intended to return said sums to Fair and did not return said sums.

60. The control of Obsidian, DC Investments, LLC and Fair Holdings, Inc. by Defendant Timothy Durham and his wrongful acts resulted in injury or unjust loss to the Plaintiff-cross-claimant in an amount in excess of \$200,000,000.

COUNT V

Fraud- Timothy Durham, James Cochran, Obsidian

61. Plaintiff-cross-claimant hereby incorporates the preceding cross-claim paragraphs as if fully rewritten herein.

62. Defendants Timothy Durham, James Cochran and Obsidian made representations to Fair and its investors that they would repay certain sums of money borrowed from Fair.

63. Defendants' representations were material because Fair relied on these statements to induce investments from its investors.

64. Defendants' representations were false because the Defendants never intended to repay these sums of money.

65. Defendants Timothy Durham, James Cochran and Obsidian intended to mislead Fair and its investors into relying upon these representations.

66. Fair and its investors were justified in relying on the representations made by

Defendants Timothy Durham, James Cochran and Obsidian.

67. The reliance of Fair and its investors on statements made by Defendants Timothy Durham, James Cochran and Obsidian proximately caused injury to Fair and its investors.

COUNT VI

Unjust Enrichment- Timothy Durham, James Cochran, Obsidian

68. Plaintiff-cross-claimant hereby incorporates the preceding cross-claim paragraphs as if fully rewritten herein.

69. Fair conferred a benefit on Defendants Timothy Durham, James Cochran and Obsidian by transferring substantial sums of money to these Defendants.

70. Defendants Timothy Durham and James Cochran and Obsidian were aware of these benefits as they accepted the sums of money.

71. Defendants Timothy Durham and James Cochran and Obsidian retained the benefits of the receipt of funds under circumstances where it would be unjust for them to retain said benefit without payment.

COUNT VII

Civil Conspiracy- All Defendants

72. Plaintiff-cross-claimant hereby incorporates the preceding cross-claim paragraphs as if fully rewritten herein.

73. Defendants possessed a common understanding or design with Timothy Durham and James Cochran to commit fraud upon Fair and its investors.

74. Defendants acted purposefully without a reasonable or lawful excuse resulting in injury and damages to Fair and its investors in excess of \$200,000,000.

COUNT VIII

Constructive Trust- Timothy Durham, James Cochran, Obsidian

81. Plaintiff-cross-claimant hereby incorporates the preceding cross-claim paragraphs as if fully rewritten herein.

82. Defendants Timothy Durham, James Cochran, and Obsidian obtained property of Fair and its investors through fraud or fraudulent means.

83. Under the circumstances of this case, it would be inequitable to permit Defendants Timothy Durham, James Cochran, and Obsidian to retain possession of the property of Fair and its investors, and the proceeds of said property.

84. Upon information and belief, the property of Fair and its investors and the proceeds of said property can be traced to Defendants Timothy Durham, James Cochran, and Obsidian and identified.

85. This Court should impose a constructive trust upon the property of Fair Finance Company and its investors and the proceeds of said property currently in the possession of Defendants Timothy Durham, James Cochran, and Obsidian and identified.

COUNT IX

Accounting - Timothy Durham, James Cochran, Obsidian

86. Plaintiff-cross-claimant hereby incorporates the preceding cross-claim paragraphs as if fully rewritten herein.

87. Defendants Timothy Durham, James Cochran, Obsidian, and John Does one through twenty are in possession of funds and proceeds of said funds which rightfully belong to Fair and its investors for the reasons set forth in Counts I through IX of this complaint.

88. Plaintiff-cross-claimant requires Defendants Timothy Durham, James Cochran, Obsidian, and John Does one through twenty to give a full accounting of their assets, bank accounts, holdings and transfers of funds which occurred within the previous two years so that Plaintiff-cross-claimant may identify the funds and proceeds of said funds which rightfully belong to Fair and its investors and prevent dissipation of same.

Reservation of Rights

90. The transactions among the Debtor and its insiders and affiliates are complex. The Trustee's investigation and analysis in this matter is on-going and, to some extent, depends upon records solely within the possession of third parties, including the Federal Bureau of Investigation. Based upon the Trustee's preliminary investigation and analysis, the Trustee believes that he likely will discover grounds for additional claims against one or more of the Defendants herein, including, without limitation, claims on notes and claims under chapter 5 of the Bankruptcy Code.

WHEREFORE, Brian Bash, Defendant, Trustee, Plaintiff cross-claimant, prays for an order of judgment based on one or more of the Counts alleged herein against any, all, or separate Defendants as the evidence will show, and such other relief as the court deems necessary and appropriate.

/s/ Michael Moran
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CERTIFICATE OF SERVICE

A copy of the foregoing was filed electronically and served via the court's electronic docketing system on June 23, 2010 upon the following:

- **Brian A Bash** bashtrustee@bakerlaw.com, bbash@ecf.epiqsystems.com
- **Leon Friedberg** lfriedberg@cpmlaw.com, rswoager@cpmlaw.com
- **H Ritchey Hollenbaugh** hrh@cpmlaw.com,
rms@cpmlaw.com;slq@cpmlaw.com
- **David A Mucklow** davidamucklow@yahoo.com
- **United States Trustee** (Registered address)@usdoj.gov

A copy of the foregoing was filed electronically and served via regular, U.S. mail on June 23, 2010 upon the following:

Fair Finance Company
815 E. Market Street
Akron, OH 44305

Nellie M. McKibben
1523 Hillside Terrace
Akron, OH 44305

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/s/ Michael J. Moran
Michael J. Moran
Attorney for Trustee