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Litigation

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GUY CARPENTER SUED BY STATE OF CONNECTICUT FOR ALLEGED ANTITRUST PRACTICES ON THE REINSURANCE MARKET

On October 8, 2007, Connecticut Attorney General, Richard Blumenthal, announced a lawsuit had been filed against the reinsurance broker Guy Carpenter (“Carpenter”) for alleged anticompetitive practices that could have inflated insurance costs for insurance companies and consumers. The Connecticut Attorney General’s complaint, dated October 4, 2007, is founded upon one count of violation of the Connecticut Antitrust Act (Conn. Gen. Stat. §§ 35-24 et seq.) and one count of violation of the Connecticut Unfair Trade Practices Act (Conn. Gen. Stat. §§ 42-110a et seq.) against Carpenter and Excess Reinsurance Company (“Excess Re”) (partly owned and managed by Carpenter).

The suit, filed in Hartford Superior Court, alleged that Carpenter conspired with reinsurers to fix prices, eliminate competition and substantially increase profits in the reinsurance market.

According to the filing, Carpenter allegedly funneled lucrative business to a select group of reinsurers – or “facilities” – in exchange for excessive fees and other benefits from these reinsurers. Reinsurers included in these facilities agreed not to compete against the prices and terms set by Carpenter or another “lead

reinsurer” and instead agreed to be bound by the same prices and terms as the other participants, the complaint charges.

If a reinsurer was unwilling to “play ball” that reinsurer was foreclosed access to potential reinsurance business that it was otherwise willing to compete for and write, according to the complaint.

The suit seeks damages, restitution and civil penalties. The Attorney General claims that consumers in Connecticut and other states paid premiums as much as 40 percent above industry averages. Meanwhile, the reinsurers allegedly took in more than \$1 billion in premiums and Carpenter received more than \$80 million in fees and commissions, continues the complaint.

Additional reinsurers - alleged co-conspirators in the schemes - identified in the lawsuit include Arch Reinsurance Company of Nebraska, Aspen Insurance UK Limited of Bermuda, Employers Mutual Casualty Company of Iowa, Farmers Mutual Hail Insurance Company of Iowa, Farm Mutual Reinsurance Plan of Canada, Swiss Reinsurance America Corporation of Armonk, NY, The Toa Reinsurance Company of America of New Jersey, and QBE Reinsurance Corporation of New York.

On October 8, 2007,

Carpenter issued a statement indicating that there was “no basis” for the Connecticut Attorney General’s antitrust lawsuit. Carpenter said that it was based “on a fundamental misunderstanding of reinsurance facilities.”

This lawsuit, the first of its kind in the United States, highlights an issue that the European Union has been tackling for months: that of the largely unregulated nature of the reinsurance industry. In its final report delivered in late September 2007, and concluding a two-year investigation into the business insurance sector, the European Commission confirmed its concerns as to transparency of remuneration and conflicts of interest in insurance brokerage.

The lawsuit filed by the Connecticut Attorney General may lead to comparable actions taken by Attorneys General in other states. In addition, there is a significant likelihood that class action plaintiffs’ lawyers may seek to bring cases on behalf of consumers, who are identified as victims in the Complaint. The Complaint is also highly likely to revive the debate over federalization of insurance and reinsurance in the United States.

The full complaint can be accessed at the following internet address: <http://www.ct.gov/ag/lib/ag/antitrust/reinsurancecomplaint.pdf>.

For a copy of and further information about this Client Alert, please contact:

Linda Dakin-Grimm,
Partner, Litigation and Reinsurance Group
(213) 892-4404
ldakin-grimm@milbank.com

Scott Edelman,
Partner, Litigation and Reinsurance Group
(212) 530-5149
sedelman@milbank.com

Michael Haravon,
Associate, Litigation and Reinsurance Group
(213) 892-4516
mharavon@milbank.com

You may also contact any member of Milbank’s Litigation Group. Contact information can be found on Milbank’s website at: http://www.milbank.com/en/PracticeAreas/LitigationArbitration_alpha.htm

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