

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X
CARMINE A. LoPRESTI

Plaintiff,

-against-

Index No.

12719/2004

SUMMONS

MASSACHUSETTS MUTUAL LIFE INSURANCE
COMPANY; YANKEE FINANCIAL GROUP, Inc.;
OPPENHEIMERFUNDS, Inc.; OPPENHEIMERFUNDS
DISTRIBUTOR, Inc.; CALVIN GREILSAMER;
AMERICAN CENTURIAN LIFE ASSURANCE COMPANY;
IDS LIFE INSURANCE COMPANY OF NEW YORK;
AMERICAN EXPRESS COMPANY; AMERICAN EXPRESS
FINANCIAL CORPORATION; AMERICAN EXPRESS
FINANCIAL ADVISORS, Inc.; PAUL TRAUSE;
WYCKOFF HEIGHTS MEDICAL CENTER;
NEW YORK-PRESBYTERIAN HEALTHCARE SYSTEM,
Inc.; and DOMINICK GIO, individually, and
in his capacity as CEO, Chairman and/or
President of the defendant WYCKOFF HEIGHTS
MEDICAL CENTER;

Defendants.
-----X

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KINGS COUNTY CLERK
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To the above named defendants:

YOU ARE HEREBY SUMMONED and required to
serve upon plaintiff's attorney an answer to the complaint in
this action within twenty days after the service of this summons,
exclusive of the day of service, or within thirty days after
service is complete if this summons is not personally delivered
to you within the State of New York. In case of your failure to
answer, judgment will be taken against you by default for the
relief demanded in the complaint.

Plaintiff designates Kings County as the place of trial. The
basis of the venue designated is the place of business of the
defendant Wyckoff Heights Medical Center, which is: 374 Stockholm
Street, Brooklyn NY 11237.

Dated: Freeport, New York
April 21, 2004

HENRY M. GRUBEL
Attorney for Plaintiff
HENRY M. GRUBEL, P.C.
37 Prospect Street
Freeport, New York 11520
516-623-4130

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X
CARMINE A. LOPRESTI,

Plaintiff,

-against-

Index No.

Complaint

MASSACHUSETTS MUTUAL LIFE INSURANCE
COMPANY; YANKEE FINANCIAL GROUP, Inc.;
OPPENHEIMERFUNDS, Inc.; OPPENHEIMERFUNDS
DISTRIBUTOR, Inc.; CALVIN GREILSAMER;
AMERICAN CENTURIAN LIFE ASSURANCE COMPANY;
IDS LIFE INSURANCE COMPANY OF NEW YORK;
AMERICAN EXPRESS COMPANY; AMERICAN EXPRESS
FINANCIAL CORPORATION; AMERICAN EXPRESS
FINANCIAL ADVISORS, Inc.; PAUL TRAUSE;
WYCKOFF HEIGHTS MEDICAL CENTER;
NEW YORK-PRESBYTERIAN HEALTHCARE SYSTEM,
Inc.; and DOMINICK GIO, individually, and
in his capacity as CEO, Chairman and/or
President of the defendant WYCKOFF HEIGHTS
MEDICAL CENTER;

Defendants.
-----X

Plaintiff, CARMINE A. LOPRESTI, by his undersigned
attorney, for his complaint herein against the defendants,
respectfully shows to the Court and alleges, as follows:

INTRODUCTION

1. Plaintiff brings this action against the defendants for
their having wrongfully eliminated plaintiff as a competitor, and
destroyed plaintiff's business of selling retirement annuities to
the employees of the defendant WYCKOFF HEIGHTS MEDICAL CENTER.

The action is brought under the New York Antitrust Law, commonly

known as the Donnelly Act, N.Y. General Business Law § 340; the common law doctrines of misappropriation; tortious interference with contract; tortious interference with prospective contractual relations; and against those defendants who are licensees of the N.Y.S. Insurance Department, for their violation of N.Y.S. Insurance Law § 2123(d), and the Regulations promulgated thereunder.

THE PARTIES

2. Plaintiff is, and was, at most times hereinafter mentioned a resident of the State of New Jersey. At all times hereinafter mentioned plaintiff has conducted, and still conducts his annuity sales business as an independent sole proprietor in the State of New York, and in the State of New Jersey.

3. At all times hereinafter mentioned, the defendant MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY, (hereafter "MASSMUTUAL"), was, and still is, a foreign life insurance company, authorized to do business in the State of New York, with principal offices located at 1295 State Street, Springfield, MA 01111. It is a licensee of the New York State Insurance Department. MASSMUTUAL is duly authorized and licensed by the New York State Insurance Department (hereafter "NYSID"), to sell life insurance and annuity policies in the State of New York, and MASSMUTUAL maintains sales offices in the State of New York.

4. At all times hereinafter mentioned, the defendant OPPENHEIMER-FUNDS DISTRIBUTOR, Inc. was, and still is, a domestic New York State business corporation, with offices located at 2 World Financial Center, 225 Liberty Street, New York, N.Y. 10080

5. At all times hereinafter mentioned, the defendant OPPENHEIMERFUNDS, Inc. was, and still is, a foreign business corporation domiciled in the State of Colorado. It is duly authorized to transact business in the State of New York, with offices located at 2 World Financial Center, 225 Liberty Street, New York, N.Y. 10080.

6. At all times hereinafter mentioned, the defendant YANKEE FINANCIAL GROUP, Inc. was, and still is, a foreign business corporation, domiciled in the State of Connecticut. It is a licensee of the New York State Insurance Department. It is duly authorized to transact business in the State of New York, with principal offices located at 150 Broad Hollow Rd, Suite 121, Melville, N.Y. 11747

7. At all times hereinafter mentioned, the defendant CALVIN GREILSAMER, was, and still is, a sales agent and/or a representative associated with or employed by the defendant YANKEE FINANCIAL GROUP, Inc., and is a licensee of the New York State Insurance Department.

8. At all times hereinafter mentioned, the defendants YANKEE FINANCIAL GROUP, Inc., OPPENHEIMERFUNDS, Inc., CALVIN

GREILSAMER, and OPPENHEIMERFUNDS DISTRIBUTOR, Inc. were, and still are, each either owned by, affiliated with, related to, subsidiaries of, parents of, employees of, agents of, or are otherwise affiliates of each other, or with the defendant MASSMUTUAL, and are all hereafter collectively referred to as the "MASSMUTUAL GROUP".

9. At all times hereinafter mentioned, the defendant AMERICAN EXPRESS FINANCIAL ADVISORS, Inc. was, and still is, a foreign business corporation which is domiciled in the State of Delaware. It is duly authorized to do business in the State of New York, with its headquarters located at 200 Axp Financial Center, Minneapolis, MN 55474. It is a licensee of the New York State Insurance Department. It maintains a sales office in New York City at 230 Park Avenue, New York, N.Y, and has other locations in the State of New York, including one at 333 Earle Ovington Blvd., Suite 1010, Mitchel Field, NY 11553.

10. At all times hereinafter mentioned, the defendant AMERICAN CENTURIAN LIFE ASSURANCE COMPANY was, and still is, a domestic insurance company, duly authorized to sell life insurance and annuity policies by the New York State Insurance Department. It is a licensee of the New York State Insurance Department and maintains offices at 20 Madison Avenue Extension, Albany, N.Y. 12205.

11. At all times hereinafter mentioned, the defendant IDS LIFE INSURANCE COMPANY OF NEW YORK, was, and still is, a domestic insurance company duly authorized to sell life insurance and annuity policies by the NYSID. It is a licensee of the NYSID, and maintains offices at 20 Madison Avenue Extension, Albany, N.Y. 12205.

12. At all times hereinafter mentioned, the defendant AMERICAN EXPRESS COMPANY, was, and still is, a domestic New York business corporation, with offices located at 200 Vesey Street, New York, N.Y. 10285.

13. At all times hereinafter mentioned, the defendant AMERICAN EXPRESS FINANCIAL CORPORATION, was, and still is, a foreign business corporation, domiciled in the State of Delaware. It is duly authorized to transact business in the State of New York. It is a licensee of the New York State Insurance Department, with its headquarters located at 200 Axp Financial Center, Minneapolis, MN 55474. It maintains a sales office in New York City at 230 Park Avenue, New York, N.Y.

14. At all times hereinafter mentioned, the defendant PAUL TRAUSE was, and still is, a sales agent and/or representative associated with or employed by the defendant AMERICAN EXPRESS FINANCIAL CORPORATION. He is a licensee of the New York State Insurance Department.

15. At all times hereinafter mentioned, the defendants AMERICAN CENTURIAN LIFE ASSURANCE COMPANY, IDS LIFE INSURANCE COMPANY OF NEW YORK, AMERICAN EXPRESS FINANCIAL CORPORATION, PAUL TRAUSE and AMERICAN EXPRESS FINANCIAL ADVISORS, Inc. were, and still are, each either owned by, employed by, affiliates of, affiliated with, subsidiaries or parents of, or are otherwise affiliated with one another and/or related to the defendant AMERICAN EXPRESS COMPANY, and are all hereafter collectively referred to as the "AMEX GROUP".

16. At all times hereinafter mentioned, the defendant WYCKOFF HEIGHTS MEDICAL CENTER, (hereafter "WYCKOFF") was, and still is, a domestic, Not-for-profit Corporation, located at 374 Stockholm Street, Brooklyn N.Y. 11237.

17. At all times hereinafter mentioned, the defendant THE NEW YORK-PRESBYTERIAN HEALTHCARE SYSTEM, Inc., (hereafter "NY&PHS") was, and still is, a Domestic, Not for profit Corporation, with offices located at 525 East 68th Street, New York, N.Y. 10021. The defendant WYCKOFF is a member of the NY&PHS.

18. At some times hereinafter mentioned, the defendant DOMINICK GIO was, and still is, the President and/or Chairman, and Chief Executive Officer of the defendant WYCKOFF.

19. The defendants WYCKOFF, NY&PHS, and DOMINICK GIO are all hereafter collectively referred to as the "WYCKOFF GROUP".

AS AND FOR A FIRST CAUSE OF ACTION
(UNDER GEN. BUS LAW § 340, THE DONNELLY ACT)

20. Plaintiff repeats, reiterates and reasserts, with the same force and effect, each and every allegation herein above set forth in paragraphs 1 through 19, as if herein again fully set forth.

21. For approximately thirty (30) years plaintiff has been, and still is, duly licensed by the New York State Insurance Department to sell life insurance and annuity policies in the State of New York.

22. Plaintiff's business consists of the sale and servicing of Tax Sheltered Annuities, qualified under § 403(b) of the Internal Revenue Code, (hereafter "IRC"), to employees of Not-for-profit organizations, which are qualified as tax exempt organizations, under § 501(c)(3) of the IRC.

23. Since in or about 1978, at the special instance and request of the then management of WYCKOFF the plaintiff has been selling, and servicing, voluntary, salary reduction, fixed, individual, Tax Sheltered Annuities (hereafter "TSA"), qualified by the Internal Revenue Service (hereafter "IRS") under § 403(b) of the IRC, to the employees of WYCKOFF.

24. The WYCKOFF employees' § 403(b) TSA contributions were made pursuant to voluntary salary reduction agreements entered into by and between WYCKOFF, the WYCKOFF employee, and plaintiff's annuity insurance company, North American Company for Life and Health Insurance of New York, (hereafter "NACOLAH"), all pursuant to IRC § 403(b).

25. Upon information and belief, at all times hereinafter mentioned, the WYCKOFF § 403(b) plan was noncontributory, in that no contributions were made on behalf of any WYCKOFF employee by the WYCKOFF GROUP into the § 403(b) annuity contracts sold by the plaintiff. All annuity contributions consisted of the plaintiff's customer's own money that was withheld from their pay each pay period pursuant to the salary reduction agreements, and the sums so withheld were then forwarded by WYCKOFF to NACOLAH.

26. All of the § 403(b) retirement annuities sold by plaintiff at WYCKOFF were exempt from the terms and conditions of the Employee Retirement Income Security Act of 1974, ("ERISA") 29 USC § 1001 et. seq.

27. Plaintiff's customers enrolled through him in fixed § 403(b) annuity contracts issued by NACOLAH, which guaranteed a minimum stated rate of interest, and were free from the risk of loss of principal.

28. Plaintiff's WYCKOFF customer account values in mid 2003 totaled about \$1,000,000. Plaintiff's customers were contributing

approximately \$7,000 per month into their NACOLAH retirement annuities in the year 2003.

29. By a letter to its employees dated November 24, 2003, WYCKOFF announced that effective January 1, 2004, WYCKOFF would limit its § 403(b) Tax Sheltered Annuity providers to the members of the defendants AMEX GROUP and MASSMUTUAL GROUP, thereby excluding plaintiff as a vendor of retirement annuities.

30. At all times hereafter mentioned, the defendants had conspired amongst themselves through concerted actions, via contracts, agreements, arrangements, or combinations thereof to monopolize, eliminate competition, restrain trade and destroy plaintiff's annuity business at WYCKOFF, in violation of § 340 of the General Business Law of the State of New York.

31. In furtherance of their wrongful economic goals, plaintiff's existing customers were no longer permitted by the WYCKOFF GROUP to continue making salary reduction payments into their then existing previously issued NACOLAH annuities.

32. The defendants have wrongfully conspired with one another through concerted actions as aforesaid, to give to themselves the exclusive right to market tax qualified retirement annuity products to the employees of WYCKOFF, to the exclusion of plaintiff and all others.

33. By creating their monopoly, restraining trade, and destroying competition, the defendants have gained control over

the employees' retirement annuities, so as to be able to fix prices, features, benefits, conditions and to otherwise control employee retirement funds and the terms of the employees' personally self funded annuity retirement program.

34. The monopolistic actions of the defendants have prevented the plaintiff, from continuing to sell § 403(b) annuity products to the approximately 1,800 WYCKOFF employees, and have made the plaintiff a potential litigation target in the future.

35. By reasons of the monopolistic actions of the defendants, plaintiff has sustained irreparable injury to his business, in which he has invested over twenty years of his time, effort and money, in order to establish the good will needed to obtain, retain and enlarge his customer base at WYCKOFF.

36. The nature and effects of the foregoing conspiratorial acts and arrangements by the defendants, are to deny plaintiff access to his retirement annuity market at WYCKOFF, and prevent competition in the employee benefits annuity market at WYCKOFF.

37. The defendants made an arrangement to eliminate plaintiff as a competitive vendor in the relevant retirement annuity, product market at WYCKOFF.

38. Consideration of some sort has, or will, pass between the defendants, as part of their conspiracy and reciprocal

relationship to create their monopoly and restrain trade as aforesaid.

39. By reason of the monopolistic actions of the defendants, plaintiff has sustained injury to his business. Defendants, in bad faith, in violation of statute, and/or by commercially immoral and illegal means, have wrongfully appropriated to themselves plaintiff's property interest in his annuity business at WYCKOFF by the use of unfair commercial advantage, all to the defendants' mutual economic benefit.

40. The defendants have created what is tantamount to a "Company Store", at WYCKOFF by agreeing amongst themselves that only the two co-defendant vendor groups will be permitted to sell the WYCKOFF employees their Tax Sheltered Annuities. The free and open exchange of ideas and information about competing annuity products has been denied, by virtue of the arrangements between the defendants to exclude plaintiff as an authorized retirement annuity vendor as herein indicated.

41. The defendants have conspired amongst themselves and made reciprocal arrangements to trade exclusively for their sole mutual economic advantage in the sale of retirement annuities to the employees of WYCKOFF.

42. Subsection 2 of § 340 of the New York General Business Law specifically makes § 340 of the General Business Law applicable to the business of insurance, and the required

statutory notice of this action will have been given to the Attorney General of the State of New York on the 22nd day of April, 2004.

43. The plaintiff has no adequate remedy at law. The above acts and conduct of the defendants are continuous. The plaintiff has suffered and will continue to suffer, irreparable injury unless preliminary, temporary and permanent injunctions and orders are issued, enjoining the defendants from their continued violations of the laws complained of herein.

44. Plaintiff has lost current and future income; the future value of ongoing rollovers of annuities that have been or will be replaced by the defendants; the loss of good will; the reduction in value of his business; and sustained the potential of being targeted in litigation in the future, all to plaintiff's damage in the sum of \$1,000,000.

AS AND FOR A SECOND CAUSE OF ACTION
(VIOLATION OF N.Y.S.Ins Law § 2123(b))

45. Plaintiff repeats, reiterates and reasserts, with the same force and effect, each and every allegation herein above set forth in paragraphs 1 through 44, as if herein again fully set forth.

46. The defendants have convinced plaintiff's customers at WYCKOFF to cancel, stop making deposits, roll over, or transfer their accumulated retirement annuity account balances with

NACOLAH into the retirement annuity plans that are being either promoted, solicited, sponsored and/or sold by the defendants.

47. The members of the MASSMUTUAL GROUP, except OPPENHEIMERFUNDS, Inc. and the members of the AMEX GROUP, except AMERICAN EXPRESS COMPANY, are all licensees of the New York State Insurance Department ("NYSID"). As such licensees, they are all subject to, and bound to comply with the terms and conditions of NYSID Regulation 60, promulgated under the authority of 11 NYCRR §§ 51.1 through 51.8, which, *inter-alia*, proscribe annuity transfers from one insurance company to another without the full disclosures mandated by said Regulation 60.

48. The defendant licensees of the NYSID, are failing to comply with the terms of Regulation 60, which prohibits incomplete comparisons, as defined therein, in the replacement of plaintiff's existing NACOLAH annuity contracts, with annuity contracts issued by and through members of the MASSMUTUAL GROUP and the AMEX GROUP.

49. The defendants, by their agents, servants and employees have made and are continuing to make incomplete comparisons in violation of Regulation 60 to convince plaintiff's customers to rollover or discontinue their NACOLAH § 403(b) fixed annuities, in favor of the annuities, sold by and or through the defendants.

50. The defendants, by their agents, servants, employees and subsidiaries have deliberately refused to comply with the provisions of Regulation 60.

51. The defendants in their ongoing campaign of unfair competition, incomplete comparisons, and in furtherance of their conspiracy to monopolize the retirement annuity product market at WYCKOFF, have also failed to provide full disclosure as defined in Regulation 60, of the potential problems and economic damages that will inure to plaintiff's customers as a result of the wrongful actions of the defendants.

52. The misleading statements, incomplete comparisons and misrepresentations by the defendants, as defined in Regulation 60, were made by the defendants for the purpose of inducing, or tending to induce plaintiff's customers to discontinue, transfer or replace their existing individual IRC § 403(b) annuity contracts with the variable or fixed annuities promoted, sold and offered by or through the defendants herein.

53. Per § 2123(b) of the NYSIL, the defendants' failure to conform to the requirements of Regulation 60, in advocating to plaintiff's customers and forcing them to discontinue, transfer, or replace their existing individual TSA contracts, deems the statements, comparisons and representations, that are made to plaintiff's customers, to be incomplete comparisons.

54. There is no presumption allowed that plaintiff's customers knew of any of the provisions, terms, or benefits contained in any annuity contract owned by or subsequently sold to them by the defendants.

55. By reason whereof plaintiff has been, and will be irreparably harmed and damaged thereby, and he has no adequate remedy at law.

56. All to plaintiff's damage in the statutory amount of the commissions, both present and future, that were, and will be lost by the plaintiff due to the subject defendants' violations of Regulation 60 as aforesaid, in an amount to be determined at the trial of this action.

**AS AND FOR A THIRD CAUSE OF ACTION
(TORTIOUS INTERFERENCE WITH CONTRACT)**

57. Plaintiff repeats, reiterates and reasserts, with the same force and effect, each and every allegation herein above set forth in paragraphs 1 through 56, as if herein again fully set forth.

58. Plaintiff had sold NACOLAH annuity contracts to his customers at WYCKOFF. Said annuity contracts were still in existence on December 31, 2003. Plaintiff was paid ongoing sales commissions by NACOLAH when his customers at WYCKOFF made deposits into their NACOLAH annuities, via the proceeds of the salary reductions that were sent to NACOLAH by WYCKOFF.

59. Plaintiff had an existing commission agreement between himself and NACOLAH under which he earned sales commissions on the deposits made by his customers into their NACOLAH annuities.

60. The defendants were aware of the existence of the NACOLAH annuity contracts held by plaintiff's customers at WYCKOFF, and the fact that plaintiff had a contract between himself and NACOLAH which governed the commissions plaintiff earned on his annuity sales.

61. The defendants knew about the existence of the NACOLAH retirement annuity contracts. WYCKOFF was a party to the salary reduction agreements between the employees, WYCKOFF, and NACOLAH to fund said annuities. WYCKOFF was remitting the employee salary reductions to NACOLAH, as required by the terms of the aforesaid salary reduction agreements, pursuant to § 403(b) of the IRC.

62. Due to the wrongful acts of the defendants, plaintiff's customers were interfered with, and were forced to stop making payments into their NACOLAH retirement annuities, and were, and are, being induced to cancel or surrender their existing annuity contracts with NACOLAH, and replacing them with annuities being promoted, marketed, and sold by the defendants.

63. By the defendants' wrongful actions as herein set forth plaintiff lost 100% of the annual income he derived under his commission agreement with NACOLAH for the annuities he sold

and serviced at WYCKOFF, and plaintiff can no longer sell the NACOLAH retirement annuities to the WYCKOFF employees.

64. The acts of the defendants were, and are, intentional, employing wrongful means, to create an unlawful restraint of trade, and committed with malice for the wrongful purpose of excluding plaintiff as a competitive retirement TSA vendor at WYCKOFF, in order to create a monopoly for the defendants' economic benefit, and to usurp and appropriate plaintiff's customers to themselves.

65. The WYCKOFF GROUP has strong armed, and abused its powers as an employer to prohibit its employees from using their own earnings, to do business with the plaintiff, all in its own favor, and to the profit of the AMEX GROUP and the MASSMUTUAL GROUP, and to the detriment of plaintiff.

66. As a result of the foregoing plaintiff has been damaged in the loss of the value of his business, plus the commissions he would have received on the subject annuity deposits, plus possible future liability for future litigation, arising out of the wrongful acts of the defendants, in the amount of \$1,000,000.

67. Plaintiff has no adequate remedy at law.

**AS AND FOR A FOURTH CAUSE OF ACTION
(TORTIOUS INTERFERENCE WITH PROSPECTIVE
CONTRACTUAL RELATIONS and/or ECONOMIC ADVANTAGE)**

68. Plaintiff repeats, reiterates and reasserts, with the same force and effect, each and every allegation herein above set

forth in paragraphs 1 through 67, as if herein again fully set forth.

69. The defendants have deliberately and willfully interfered with the prospective economic advantages to plaintiff of his relationship with his customers and the other employees at WYCKOFF, by creating a monopoly in their economic favor, in restraint of trade to exclude plaintiff as a vendor of retirement annuities at WYCKOFF.

70. Defendants have used wrongful means to prevent the WYCKOFF employees from continuing to make their monthly payments into the annuities sold to them by the plaintiff, and to prevent plaintiff from continuing to sell his NACOLAH annuities to other employees at WYCKOFF.

71. Defendants have used wrongful means to prevent the plaintiff from continued selling of his TSA retirement annuities to the WYCKOFF employees.

72. But for said wrongful interference by the defendants, plaintiff would have been able to pursue and continue his annuity sales efforts at WYCKOFF, obtain new customers, and his existing customers would have continued making their deposits into the annuities previously sold to them by plaintiff.

73. By reason of the foregoing plaintiff has been damaged in the sum of \$1,000,000.

74. Plaintiff has no adequate remedy at law.

AS AND FOR A FIFTH CAUSE OF ACTION
(UNFAIR COMPETITION &
MISAPPROPRIATION OF BUSINESS)

75. Plaintiff repeats, reiterates and reasserts, with the same force and effect, each and every allegation herein above set forth in paragraphs 1 through 74, as if herein again fully set forth.

76. The defendants have engaged in unfair competition and unlawful activities in creating a monopoly in restraint of trade, in order to misappropriate plaintiff's annuity business and customers at WYCKOFF to themselves.

77. The defendants have wrongfully conspired to misappropriate plaintiff's annuity business at WYCKOFF.

78. The defendants have taken from the plaintiff the property of his annuity business at WYCKOFF.

79. The plaintiff and the non-WYCKOFF defendants in this litigation were formerly in competition with each other, for the TSA retirement annuity business at WYCKOFF, and the defendants have now eliminated plaintiff as a competitor of theirs' through wrongful means.

80. Through the wrongful actions of the defendants as aforesaid, the defendants have by commercially immoral means of competition, eliminated the plaintiff as a competitor, and have

thereby appropriated to themselves the plaintiff's annuity business that took the plaintiff many years and dollars to establish at WYCKOFF.

81. By reason of the foregoing plaintiff has been damaged in the sum of \$1,000,000.

82. Plaintiff has no adequate remedy at law.

RELIEF REQUESTED

WHEREFORE, plaintiff requests relief and demands judgment as follows:

(1). A permanent injunction restraining, prohibiting and enjoining WYCKOFF from refusing to allow plaintiff to continue selling retirement annuities to the employees of WYCKOFF, and from refusing to remit the WYCKOFF employees' voluntary salary reductions to NACOLAH, pursuant to their salary reduction agreements.

(2) A permanent injunction restraining, prohibiting and enjoining the defendants from continuing with their contracts, agreements, arrangements, or combination in restraint of free trade in the sale of retirement annuities at WYCKOFF, to the exclusion of plaintiff.

(3). A permanent injunction restraining, prohibiting and enjoining the defendants herein who are licensees of the NYSID, from violating the provisions of Regulation 60 of the NYSID.

(4) Damages in the amount of \$1,000.000.

(5). Treble damages under N.Y.S General Business Law § 340(5).

(6). Punitive damages.

(7). The costs and disbursements of this action, including reasonable attorneys' fees, as provided by N.Y.S. General Business Law § 340(5).

(8). Such other, different and further relief as this Court may deem just and proper.

Dated: Freeport, New York
April 22, 2004

Henry M. Grubel
Henry M. Grubel, P.C.
Attorney for Plaintiff
37 Prospect Street
Freeport, N.Y. 11520
516-623-4130