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MAY 25 2009

BRENDA A. UMSTATTD  
CLERK CIRCUIT COURT  
COLE COUNTY, MISSOURI

MISSOURI CIRCUIT COURT  
NINETEENTH JUDICIAL CIRCUIT  
COLE COUNTY

JOHN M. HUFF, )  
Director of the Department of Insurance, )  
Financial Institutions & Professional )  
Registration for the State of Missouri, in his )  
capacity as the Liquidator for General )  
American Mutual Holding Company; )

and )

ALBERT A. RIEDERER, )  
in his capacity as the Special Deputy )  
Liquidator for General American Mutual )  
Holding Company, )

Plaintiffs, )

vs. )  
DEWEY & LEBOEUF LLP, a New York )  
Limited Liability Partnership )

Serve at: )  
1301 Avenue of the Americas )  
New York, New York 10019-6092 )

and )

125 West 55<sup>th</sup> Street )  
New York, NY 10019-5389 )

and )

RICHARD LIDDY, )

Serve at: )

2265 Croydon Walk )  
St. Louis, Mo, 63131 )

Defendants )

Case No: 09AL-CC 00278

JURY TRIAL DEMANDED

PETITION

John M. Huff, as Liquidator for General American Mutual Holding Company, and Albert A. Riederer, as Special Deputy Liquidator for General American Mutual Holding Company (“The Liquidators”) bring this action as authorized by Missouri’s Insurers Supervision, Rehabilitation and Liquidation Act, RSMo §§ 375.1150 to 375.1246 (the “Act”) in their official capacity as Liquidators of General American Mutual Holding Company. The Liquidators bring this action against Dewey & LeBoeuf LLP, (“LeBoeuf”) and Richard A. Liddy (“Liddy”) in their own names and on behalf of General American Mutual Holding Company (“GAMHC”), GAMHC’s members and policyholders.

GAMHC, a mutual holding company, organized under the laws of the State of Missouri, was sole owner of GenAmerica (“GenAm”), which in turn owned General American Life Insurance Company (“GALIC”) and other subsidiaries (hereinafter collectively referred to as “General American”). As an insurer under the Act, General American is subject to regulation by the Department of Insurance, Financial Institutions & Professional Regulation for the State of Missouri (“MDI”). The Liquidators bring this action pursuant to their authority granted under the Act.

## **I. PARTIES**

### **A. PLAINTIFF**

1. Plaintiff John M. Huff is the current Director of the MDI for the State of Missouri and the Liquidator of GAMHC. GAMHC entered Liquidation after order of a Missouri State Court pursuant to the laws of the State of Missouri regulating the business of insurance.

2. Plaintiff Albert A. Riederer is the Special Deputy Liquidator of GAMHC, duly appointed by the Director of the MDI. Riederer’s appointment was approved by the Liquidation Court pursuant to the laws of the State of Missouri regulating the business of insurance.

§375.1176.2.

3. Plaintiffs have standing to bring this action pursuant to the Act, RSMo §§ 375.1150 to 375.1246.

4. Plaintiffs' pursuit of these claims is timely and is not barred by any defense of laches or statute of limitations pursuant to the terms of the Act. RSMo § 375.1188.

5. Plaintiffs bring this action pursuant to RSMo §§ 375.1182.1(12) and 375.1182.1(13), in their own names and on behalf of GAMHC, a Missouri Insurance Mutual Holding Company in statutory liquidation under the supervision of the Missouri State Courts pursuant to the laws of the State of Missouri regulating the business of insurance, and on behalf of GAMHC's members and policyholders as provided for by the Act.

**B. DEFENDANTS**

6. LeBoeuf is a limited liability partnership, organized under the laws of New York with its principal place of business in New York, New York. LeBoeuf is the surviving entity which resulted from the merger of LeBoeuf, Lamb, Leiby & MacRae, LLP ("LeBoeuf Lamb") and Dewey Ballantine, LLP.

7. At all times relevant, LeBoeuf Lamb, its partners, associates, and employees did business within the State of Missouri, specifically including Jefferson City, Missouri, serving as counsel to General American.

8. LeBoeuf is liable for the acts, omissions, negligence and conflicts of its predecessor LeBoeuf Lamb.

9. LeBoeuf may be served at 1301 Avenue of the Americas, New York, New York 10019-6092 and 125 West 55<sup>th</sup> Street, New York, NY 10019-5389.

10. Liddy began working for General American in May of 1988, as General American's President and Chief Operating Officer.

11. From May of 1992 to 2000, Liddy was the President and Chief Executive Officer of General American.

12. In this role, Liddy was responsible for the strategic supervision and management of General American and reported directly to the General American Outside Board of Directors.

13. At all relevant times, Liddy lived in, and conducted substantial business within the State of Missouri.

## **II. JURISDICTION & VENUE**

14. At all times relevant to this Petition, General American, a Missouri Mutual Holding Company was regulated by the MDI, located in Jefferson City, Missouri.

15. Under the terms of the Act, this Court has jurisdiction over these claims.

16. Venue of all proceedings brought herein is proper in Cole County, Missouri.

17. Missouri has adopted the Act for the purpose of regulating the business of insurance and Missouri State Courts, pursuant to Missouri's laws pertaining to the business of insurance, have taken jurisdiction over the liquidation of GAMHC prior to the filing of this Petition.

## **III. INTRODUCTION**

18. As recently as December 1998, General American was the largest life insurance company based in Missouri. Employing over 4000 people, its owners were its over three-hundred thousand policyholder members. At that time, General American was valued by its advisors Goldman Sachs and Morgan Stanley at over two billion dollars.

19. Just eight short months later, in August 1999, at the express recommendation and direction of LeBoeuf Partner Sue Kempler and Liddy, General American sought protection in the form of Administrative Supervision from the MDI. LeBoeuf and Liddy told General American's

Outside Board of Directors that this protection was necessary to protect General American's policyholder members.

20. The suggested sale was necessitated by what the advisors portrayed as a liquidity crisis which threatened not only the existence of General American, but also the interests of hundreds of thousands of General American policyholder members and employees.

21. This liquidity crisis followed a run on the assets of GAMHC's subsidiary, GALIC, that occurred in early August, 1999. This "run on the bank" arose from "puts" exercised by the holders of General American Funding Agreements or Guaranteed Investment Contracts (hereinafter collectively "GICs"). General American internally referred to these products as its Stable Value Operations ("SVO").

22. Liddy was aware of, and oversaw the growth of, General American's SVO portfolio but failed to inform General American's Outside Board of Directors of the magnitude of SVO's growth, or the potential liquidity risks that it presented.

23. While most of these GICs allowed their holders to require General American to repay 100% of principal and accrued interest on seven days notice, some of the puts were for 30 days or longer. When the "run on the bank" began, General American became liable to repay these GIC puts as they became due.

24. Prior to the run on the bank, General American had substantial liquidity and when the puts began, General American immediately began liquidating additional assets in an attempt to cover the puts. General American was able to successfully liquidate a substantial portion of the assets covering the GICs (even without materially accessing the liquidity potential of the balance of its general account) and had achieved the liquidity necessary to cover the puts through at least August 10, 1999.

25. Despite this liquidity and other available resources, LeBoeuf partner Sue Kempler advised and counseled General American that it had no other choice but to seek protection from the MDI in the form of Administrative Supervision.

26. Contrary to representations from LeBoeuf that Administrative Supervision was a temporary measure, once General American was taken into Administrative Supervision it was a foregone conclusion, known to LeBoeuf, that General American could not survive as a stand alone company.

27. After General American's entry into Administrative Supervision, LeBoeuf partner Alexander Dye and other advisors recommended that General American be sold to Metropolitan Life Insurance Company ("MetLife") for the substantially discounted sum of \$1.2 billion dollars.

28. Shortly after this sale, if not even prior to the closing of the sale, Mr. Dye and LeBoeuf began representing MetLife. This representation ultimately led to LeBoeuf's receipt of hundreds of thousands, if not millions, of dollars in legal fees. Mr. Dye was the lead lawyer advising General American on the sale to MetLife.

29. The conflicted and negligent advice relating to the retention and growth of the SVO product and then subsequent sale of General American to MetLife after General American's downgrade resulted in a loss to General American's policyholder member owners of approximately one billion dollars in just a matter of a few short months.

30. This was not the first time that LeBoeuf had known of a client's imminent financial distress and did nothing to stop it.

#### **IV. GENERAL ALLEGATIONS**

##### **A. BACKGROUND OF PARTIES AND SIGNIFICANT ENTITIES**

###### **(1) GENERAL AMERICAN**

31. General American was a mutual life insurance company with a history dating back over 100 years. General American had traditionally focused on conservative, insurance related business. Focusing on this core business, General American grew to become the largest life insurance company incorporated in Missouri.

32. Prior to August 1999, General American was a highly rated and regarded insurance company with many diverse and valuable businesses. Those businesses included a controlling interest in Reinsurance Group of America ("RGA"), one of the largest reinsurance companies in the United States.

33. Less than a year prior to the events of August 1999, General American was valued at over two billion dollars.

34. General American was headquartered within the City of St. Louis, Missouri and employed thousands of people. As a mutual insurance company, its owners were its policyholder members.

35. After substantial review and at the specific advice and encouragement of Liddy and its trusted advisors LeBoeuf, Goldman Sachs, and Morgan Stanley, General American's Outside Board of Directors considered and approved a move towards the process of demutualization in the winter of 1998 and early 1999 with the goal of ultimately instituting an initial public offering in the spring of 2000.

## **(2) LEBOEUF**

36. With origins dating back almost 100 years, LeBoeuf is an international law firm which holds itself out as an expert in the representation of government regulated companies, particularly in the insurance industry.

37. With offices literally circling the globe, LeBoeuf, represents itself as one of the world's preeminent insurance law firms.

38. In the fall of 1998, General American hired LeBoeuf to assist it with the analysis of strategic alternatives, an analysis of each of General American's business lines, including a review of SVO, and the review of the appropriateness of a potential initial public offering.

39. As indicated in its December 3, 1998, engagement letter, LeBoeuf was hired by General American not only as counsel but also as a strategic planning consultant. Under the engagement, LeBoeuf agreed to assist General American with review and implementation of a plan to transfer value to General American's members while protecting policyholder interests. LeBoeuf was paid handsomely for its services.

40. In many ways, as the principal law firm representing General American and its Outside Board of Directors, LeBoeuf had unique expertise related to General American and a unique influence over General American's Outside Board of Directors.

41. Promoting itself as a leader in the insurance industry, and after conducting extensive due diligence work on these exact GIC products through its representation of Morgan Stanley, LeBoeuf possessed superior knowledge in and expertise related to General American. Specifically, LeBoeuf had substantial experience in transactions related to General American's partner ARM, and also represented ARM and its subsidiaries Integrity and National Integrity, in matters relating to General American's joint work with ARM on the SVO product in 1996, 1997,

and 1998, all of which, as a fiduciary and attorney, it had a duty to fully disclose to General American and its Outside Board of Directors.

42. LeBoeuf occupied a unique position to materially assist General American and its Outside Board in avoiding the liquidity crisis, in avoiding the placement of the Company into Administrative Supervision, and ultimately in avoiding the sale of General American's Assets at a substantial discount to MetLife.

43. Unfortunately, as it had previously done with other clients, LeBoeuf knew of General American's imminent financial distress and did nothing to stop it.

44. In its engagement letter, LeBoeuf promised to represent General American by using lawyers and other professionals best suited to handle issues related to:

Serv[ing] General American Mutual Holding Company, GenAmerica Corporation and General American Life Insurance Company (referred to collectively as the "Companies") on strategic planning and ultimate implementation of a plan to transfer value to members, while protecting policyholder interests.

45. LeBoeuf made these representations and warranties to General American and its Outside Board of Directors and they relied upon them in engaging LeBoeuf.

46. Despite this skill and knowledge, and the fiduciary duties inherent in its relationship as strategic advisor and legal counsel to General American, LeBoeuf misrepresented facts regarding General American's position and the appropriateness of the suggested initial public offering, failed to warn General American's Outside Board of Directors of the impending liquidity crisis, and failed to affirmatively communicate to General American's Outside Board of Directors information, knowledge and expertise LeBoeuf possessed regarding relevant matters, including the suggested entry into Administrative Supervision, all in breach of LeBoeuf's legal and fiduciary duties to General American and its Outside Board of Directors.

47. Because LeBoeuf failed in its duties, General American, and by extension, its policyholder members, suffered substantial losses.

48. Instead of vigorously representing General American, LeBoeuf put its own self-interests and the interests of its other, larger, more lucrative, clients above the interests of General American.

49. On information and belief, LeBoeuf represented ARM, MetLife, Goldman Sachs, and Morgan Stanley on separate matters at the same time LeBoeuf represented General American which LeBoeuf failed to disclose and those representations put them in direct and potential conflict with the interests of General American.

50. LeBoeuf's misrepresentations and self-interested dealings caused General American and its policyholder members to suffer a loss of over one billion dollars and resulted in the sale of General American to MetLife at a heavily discounted price, well below General American's actual value at the time. LeBoeuf undertook each of these actions in bad faith, with a specific intent to increase its own financial gain and with a reckless disregard to the rights and interests of General American and its policyholder members.

### **(3) GOLDMAN SACHS**

51. Founded in 1869, Goldman Sachs is one of the oldest and largest investment banking firms in the world. Professing to hold as its core value and number one business principal the idea that its client's interests are always placed first, Goldman Sachs claims to be the investment banker of choice for some of the world's most demanding clients.

52. Initially a partnership, after decades of debate and consideration, Goldman Sachs determined in 1998 that it should become a public company. Goldman Sachs underwent its initial public offering on May 4, 1999, generating billions of dollars for the company.

53. Goldman Sachs was hired by General American to assist it with the analysis of strategic alternatives, an analysis of each of General American's business lines, including a review of the SVO, of which the 7-Day GIC was a material portion, and the review of the appropriateness of a potential initial public offering.

54. Goldman Sachs possessed superior knowledge and expertise and occupied a position to exert influence over General American and its Outside Board of Directors, misrepresented its skill, knowledge, expertise, intent and loyalty to General American and its Outside Board of Directors, misrepresented facts regarding General American's position and the appropriateness of a suggested initial public offering, failed to warn General American's Outside Board of Directors of the impending liquidity crisis and failed to affirmatively communicate to General American's Outside Board of Directors information, knowledge and expertise Goldman Sachs possessed regarding relevant matters, all in breach of Goldman Sachs's fiduciary duties to General American and its Outside Board of Directors. Instead, in bad faith, Goldman Sachs put its own self-interests and the interests of its other, larger, more lucrative client, MetLife above the interests of General American.

55. Goldman Sachs' misrepresentations and self interested dealings contributed to cause General American and its policyholder members to suffer a loss of over one billion dollars and resulted in the sale of General American to MetLife at a hundreds of millions of dollars below General American's actual value. Goldman Sachs undertook each of these actions in bad faith, with a specific intent to increase its own financial gain and with a reckless disregard to the rights and interests of General American and its policyholder members.

56. Upon information and belief, Goldman Sachs engaged LeBoeuf for numerous matters, before, during, and after its initial public offering and paid LeBoeuf millions of dollars in legal fees for its services as counsel.

57. Upon information and belief, dozens of LeBoeuf attorneys assisted Goldman Sachs with numerous engagements, before, during and after the liquidity crisis of General American.

58. At the same time Goldman Sachs was being represented by LeBoeuf, Goldman Sachs was also actively seeking the engagement to represent MetLife in its proposed demutualization and initial public offering.

59. The proposed MetLife initial public offering represented the potential for tens of millions of dollars in advisory fees and was a priority assignment of Goldman Sachs. The sale of General American to MetLife ultimately resulted in expanding MetLife's initial public offering by approximately \$600 million dollars and increased Goldman Sachs' advisory fees substantially.

#### **(4) MORGAN STANLEY**

60. Founded in 1935, Morgan Stanley advises clients worldwide on strategic financial activities and services, marketing to clients its asserted "excellence" in investment banking. Morgan Stanley holds itself out as an internationally recognized leader in the investment banking industry and as the strategic advisor of choice to industry leaders; as one of the world's largest diversified financial services companies Morgan Stanley claims a reputation for excellence in advice and execution on a global scale.

61. Morgan Stanley was an integral part of the creation of the 7-day GICs and the idea to induce General American to sell the same, for the benefit of Morgan Stanley and to the detriment of General American and its policyholder members. Morgan Stanley, General

American's own investment banker and financial advisor, possessed superior knowledge and expertise and occupied a position to exert influence over General American and its Outside Board of Directors, misrepresented its skill, knowledge, expertise, intent and loyalty to General American and its Outside Board of Directors, misrepresented facts regarding General American, failed to warn General American's Outside Board of Directors of the impending liquidity crisis and failed to affirmatively communicate to General American's Outside Board of Directors information, knowledge and expertise Morgan Stanley possessed regarding relevant matters in breach of Morgan Stanley's fiduciary duties to General American and its Outside Board of Directors. Instead, Morgan Stanley put its own self-interest above the interests of its client.

62. On information and belief, LeBoeuf represented Morgan Stanley on numerous engagements, both before, during, and after General American's liquidity crisis and specifically provided services to Morgan Stanley regarding the SVO product at ARM. Morgan Stanley paid LeBoeuf substantial fees for that representation.

63. Because LeBoeuf also had a client relationship with Morgan Stanley, who was inextricably involved with ARM and its public offerings, LeBoeuf was conflicted from providing full and candid advice with respect to either the advice and recommendations of Morgan Stanley, or the financial condition of ARM.

#### **(5) METLIFE**

64. MetLife, with a history dating back to 1863, is the largest life insurance company in North American in terms of insurance in force and one of the largest insurance and financial services companies in the United States of America.

65. With the help of Goldman Sachs, MetLife began the process of demutualization in the fall of 1998 and spring of 1999 with an eye towards the issuance of an initial public offering in early 2000.

66. Upon the advice of Goldman Sachs, and in anticipation of its initial public offering, MetLife sought to grow its holdings, especially through acquisitions, throughout 1998 and 1999.

67. Upon information and belief, LeBoeuf served as counsel for MetLife, both before, during, and after General American's forced sale to MetLife which LeBoeuf recommended, and thus its interests, and the interests of MetLife were in conflict with the interests of General American and its policyholder members which LeBoeuf failed to disclose.

68. Upon information and belief, because LeBoeuf also had a client relationship with Goldman Sachs, who was representing MetLife in its initial public offering at the time of General American's liquidity crisis, LeBoeuf was conflicted from providing full and candid advice with respect to either the advice and recommendations of Goldman Sachs, or the offers submitted by MetLife.

69. Upon information and belief, LeBoeuf has received millions of dollars in legal fees for its work on behalf of MetLife.

#### **(6) ARM**

70. Based in Louisville, Kentucky, ARM was founded in July 1993. From its inception ARM specialized in the asset accumulation business, providing retail and institutional customers with products and services designed to serve long-term savings and retirement markets.

71. From 1993 through May 1998, Morgan Stanley owned the vast majority of ARM's stock. Morgan Stanley controlled and dominated ARM. Morgan Stanley's ownership of ARM was so extensive that, pursuant to the rules of the National Association of Securities Dealers, ARM was deemed to be Morgan Stanley's affiliate.

72. LeBoeuf served as counsel for Morgan Stanley, specifically dealing with Morgan Stanley's relationship with ARM at all times material herein, including providing legal counsel on the initial public offering for ARM as well as the secondary and rreferred offerings of ARM's common stock. Through the course of this representation, LeBoeuf became intimately familiar with ARM, and with Morgan Stanley's relationship with ARM.

73. Upon information and belief, LeBoeuf also served as counsel for ARM subsidiaries Integrity and National Integrity Life Insurance and as such, was conflicted from providing full and candid advice to General American with respect to ARM.

74. Upon information and belief, because LeBoeuf also had a client relationship with Morgan Stanley in relation to its dealings with ARM, LeBoeuf was conflicted from providing full and candid advice to General American with respect to the advice and recommendations of Morgan Stanley or the condition of ARM.

**(7) RICHARD LIDDY**

75. Liddy began working for General American in May of 1988, as General American's President and Chief Operating Officer and from May of 1992 to 2000, Liddy was the President and Chief Executive Officer of General American.

76. As President and CEO, Liddy was in charge of the strategic direction of General American's operations, and was responsible to report to the General American Outside Board, to regulators, to policyholder members and the public.

77. General American's Outside Board of Directors reviewed and considered strategic management recommendations made by Liddy. In his reports to General American's Outside Board, Liddy negligently omitted pertinent information in relation to the SVO portfolio and the characteristics and dangers of the short put GIC product.

78. Despite knowledge of potential risks associated with the SVO product, and the potential results that would occur in the event of a downgrade, Liddy did not share that information with the General American Outside Board of Directors.

79. As an officer of General American, Liddy owed a fiduciary duty to General American to advise General American's Outside Board of Directors of the risks associated with the GICs and of ARM's financial condition.

80. Liddy was also involved in General American seeking Administrative Supervision from the MDI, personally attending, and playing a key role in, the meeting to convince the MDI that Administrative Supervision was the only option for General American.

**B. GENERAL AMERICAN HIRES LeBOEUF**

81. In the fall of 1998, LeBoeuf was retained by General American and its Outside Board of Directors to provide legal advice and also for LeBoeuf's strategic planning services.

82. General American's Outside Board of Directors sought LeBoeuf's strategic planning advice to assist in the consideration of strategic options, including a potential demutualization and initial public offering which was proposed by General American's management.

83. Among the purposes for which LeBoeuf was hired was the review of General American's SVO business and the overall consideration of the advisability of the proposed demutualization. If it was determined that General American was to go forward with the demutualization, LeBoeuf was also to provide assistance with the legal structuring of the demutualization and any subsequent initial public offering.

84. General American's Outside Board of Directors, though comprised of accomplished individuals from major enterprises, were not involved in the day-to-day operations of General American and were not experts with respect to insurance, the highly specialized GICs

issued by General American, or the financial condition of ARM. To ensure that General American Management was charting the right course, the Outside Board of Directors sought out and engaged LeBoeuf, Goldman Sachs, and Morgan Stanley, seeking to receive their independent analysis.

85. General American's Outside Board of Directors did not anticipate that LeBoeuf would simply defer review as to any material aspect of General American's proposed course of action. LeBoeuf had a duty to disclose and advise General American's Outside Board of Directors about all material matters, even if its opinions differed from or were contrary to other advisors.

86. On information and belief, General American's Outside Board of Directors did not know that LeBoeuf was concurrently representing Goldman Sachs, Morgan Stanley, ARM and MetLife, nor were they informed of the conflicts and potential conflicts which this representation presented. General American's Outside Board of Directors was also never informed of the misdeeds and misrepresentations of Goldman Sachs and Morgan Stanley. At no time was the General American Outside Board of Directors advised as to the extent to which LeBoeuf's conflicts would or could prevent it from providing General American with full and complete information which was or could be contrary to the positions or interests of its other, larger, clients Goldman Sachs, Morgan Stanley, and MetLife.

87. General American sought out the special experience, expertise and advice of LeBoeuf, and General American's Outside Board of Directors relied upon LeBoeuf, to provide independent, competent, honest, unbiased, unconflicted, and thorough analysis of General American's financial condition and strategic options, including apprising the Outside Board of substantial risks which could impact and/or undermine LeBoeuf's recommendations, and

certainly risks that could impact the future viability of the company as a going concern. This included an expectation that LeBoeuf would inform General American of all material matters, even if adverse to LeBoeuf's own interests or to the interests of other LeBoeuf clients, including Goldman Sachs, Morgan Stanley, and MetLife.

88. By accepting this engagement in the fall of 1998, LeBoeuf undertook fiduciary duties to General American and its Outside Board of Directors, including duties of full candor, disclosure, loyalty, and other duties attendant to a fiduciary relationship. Thereafter, throughout the engagement and through the time of the liquidity crisis and sale to MetLife, LeBoeuf owed a fiduciary duty and obligation to General American and its Outside Board of Directors and full disclosure was required even if it conflicted with LeBoeuf's own interests or the interests of its other clients, including MetLife, Goldman Sachs and Morgan Stanley.

89. In preparation for General American's December 17, 1998, Board Meeting, LeBoeuf sent General American a memorandum outlining the General American Board's fiduciary duties. In that memo, LeBoeuf correctly stated that: "[t]he Board should not act until the directors have had sufficient time to review and familiarize themselves with all available information regarding each of the alternatives being considered" and "The Board should obtain as much information as possible regarding each of the alternatives being considered. This would include advice from financial advisors, legal counsel, actuaries, accountants and other experts."

90. Despite this advice, LeBoeuf failed in its own duties. After hearing its larger clients, Morgan Stanley and Goldman Sachs, tout the SVO line and encourage its growth, LeBoeuf made no mention of its experience with the dangers and risks of the SVO product and failed to share its knowledge that the ratings agencies had concerns about SVO, failed to share its knowledge relating to the condition of ARM, or that it had represented Morgan Stanley and

ARM on ARM's initial public offering, as well as ARM's secondary and preferred stock offerings.

91. The significance of this failure and its relations to LeBoeuf's conflicts cannot be overstated. As counsel for Morgan Stanley and ARM on ARM's initial public offering, secondary, and preferred stock offerings, LeBoeuf had concurrent ongoing duties to Morgan Stanley and ARM with respect to disclosures relating to the GIC products and simultaneously had duties to General American and its Outside Board of Directors which conflicted with Morgan Stanley and ARM's interests.

92. Instead of informing General American and its Outside Board of Directors of its knowledge relating to the GIC products and ARM, LeBoeuf acquiesced in, countenanced, and approved of Goldman Sachs and Morgan Stanley's misrepresentations.

93. LeBoeuf chose to protect its own self interests and relationships with fellow Wall Street players and larger clients such as, Goldman Sachs, Morgan Stanley, and MetLife instead of assisting its Main Street client, General American. This failure is magnified further by the fact that Morgan Stanley was sued for misrepresentations relating to the ARM offerings just eight months later. LeBoeuf simply could not have provided unbiased, unconflicted advice with respect to ARM and the GIC offerings, without jeopardizing the interests of one of its clients. LeBoeuf had to choose which clients to side with and it chose Morgan Stanley and ARM.

**C. LeBOEUF CONDUCTS DUE DILLIGENCE ON GENERAL AMERICAN SVO IN LATE 1998 AND EARLY 1999**

94. In late 1998 and early 1999, LeBoeuf conducted a thorough and extensive analysis of the General American SVO line and also took a leading role in drafting all disclosure documents necessary for the proposed General American initial public offering.

95. Records indicate that this due diligence on the SVO product was a major part of LeBoeuf's work discussed during the December 1998 Board meeting, and in the first seven months of 1999.

96. Through this due diligence, LeBoeuf was reminded of what it undoubtedly learned through its representation of Morgan Stanley with respect to ARM in 1998: that SVO "growth needs to be controlled because of rating agency view of 'run' if downgraded."

97. In this same time period, General American was downgraded by Moody's Investors Services. This downgrade brought General American within one downgrade step of a mandatory massive "put" by substantially all of the holders of short put GICs, the exact product LeBoeuf was conducting due diligence on.

98. Despite knowing the consequences of this downgrade through its extensive experience as a self-professed leader in the insurance industry and with its specific experience with ARM and this GIC product, LeBoeuf failed to advise General American's Outside Board of Directors of the significance of this downgrade and how this downgrade significantly increased the potential need for full liquidity of the short put GIC portfolio.

99. Apparently, this was not the first time LeBoeuf had failed to provide a client with crucial information which could have saved its existence. Unbeknownst to General American at the time, just a few years before their engagements as counsel and strategic advisors to General American, LeBoeuf, as counsel for Orange County, California, knew of the County's imminent financial distress and did nothing to stop it. This failure damaged Orange County by hundreds of millions of dollars, unfortunately for General American's policyholder members, LeBoeuf's failures here were even more costly.

100. The risk of a liquidity crisis and a run on the bank heightened throughout the spring and summer, all while LeBoeuf was ostensibly completing its charge of reviewing and analyzing General American's SVO portfolio. Despite this, LeBoeuf never shared the information with the General American Outside Board and indeed, when LeBoeuf issued a memorandum at the end of its due diligence work, LeBoeuf failed entirely to raise any alarm as to the growing SVO dangers.

**D. THE LIQUIDITY CRISIS**

101. On July 29, 1999, ARM announced substantial second quarter losses that resulted in a downgrade of ARM's credit rating.

102. Shortly after ARM's downgrade, on July 30, 1999, General American was also downgraded by Moody's to A3. This downgrade brought General American's investment rating below that which money market funds were allowed to possess in their portfolios by federal law. Because money market funds were essentially mandated by federal law to liquidate such holdings, General American's descent in ratings triggered the put of substantially all of the short put GICs.

103. As a result of these puts General American was required to generate several billion dollars in cash on short notice in the first few days of August 1999.

104. In attempts to cover this run General American began to liquidate substantial portions of the assets backing its GIC portfolio, (assets that collectively would have been sufficient to cover the entire \$6.5 billion GIC portfolio), and was able to raise several billion dollars in cash, successfully meeting the first wave of GIC redemptions.

105. LeBoeuf, as a leading law firm to insurance companies was uniquely positioned to provide advice and expertise to assist General American in working through this crisis and to a company-saving workout which was more than a possibility.

**E. LeBOEUF PUSHES FOR SUPERVISION**

106. Despite General American's success in raising the cash necessary to cover its initial short put GIC obligations, and despite General American possessing sufficient liquid assets to meet the GIC puts currently due, as well as the availability of other financial resources, LeBoeuf advocated General American's entry into Administrative Supervision.

107. The minutes for the August 9, 1999, General American Board of Directors meeting show, and at least one former MDI official has previously testified, that LeBoeuf's Sue Kempler (as the principal regulatory lawyer on the transaction) was substantially involved in recommending that the company be placed into a public Administrative Supervision, and that during the critical meetings in Jefferson City before the MDI, Kempler was the principal advocate that convinced the MDI to take General American into Administrative Supervision. Despite this push, LeBoeuf, at best, failed to fully ascertain all of the facts necessary to provide sound advice regarding General American's options. More likely, LeBoeuf was actually acting to further the desires of its larger clients Goldman Sachs, Morgan Stanley, and MetLife.

108. In advising, counseling and actively pushing General American into Administrative Supervision LeBoeuf disregarded General American's best interests.

109. Rather than counseling General American and its Outside Board to fully explore all alternatives, and to obtain all necessary information, LeBoeuf was an active participant in the plan to place General American in Administrative Supervision. It was this recommendation by LeBoeuf that unnecessarily ensured the demise of General American.

110. LeBoeuf certainly knew that once in Administrative Supervision, General American's options were foreclosed. Once in Administrative Supervision, it was virtually assured that General American would not continue as a stand alone, independent company, yet LeBoeuf and the financial advisors told General American's Outside Board that Administrative

Supervision was merely a temporary measure which would assist General American in working through the liquidity crisis. What LeBoeuf and the financial advisors did not tell General American's Outside Board was that it was a "temporary measure" that would virtually ensure General American must be sold.

111. Upon General American's entry into Administrative Supervision the MDI took operational control over General American.

112. Seeking to ensure the best interests of its policyholder members (and still unaware of the pervasive conflicts which infected LeBoeuf's representation), General American's Outside Board of Directors, with the approval of the MDI, again sought out its trusted advisors, including LeBoeuf, to advise it as to the course of action it should take to best ensure the policyholder members' interests after its entry into Administrative Supervision.

113. Far from the temporary measure previously mentioned, only now did LeBoeuf, along with the financial advisors, tell General American that after its entry into Administrative Supervision, a sale of the company was the only viable option.

114. LeBoeuf then continued its engagement with General American and after professing to review numerous offers on behalf of General American, ultimately recommended a purchaser to General American.

#### **F. METLIFE PURCHASES GENERAL AMERICAN**

115. LeBoeuf's penchant for catering to its larger Wall Street clients did not end once General American was placed in Administrative Supervision. Instead, LeBoeuf continued to act in a manner which betrayed the interests of General American.

116. Despite purporting to evaluate all offers made by companies interested in General American, LeBoeuf discounted completely Mass Mutual's offer to merge the companies, a transaction which would have fully protected General American policyholder member value, but

which would not have resulted in additional ongoing legal representation for LeBoeuf and which would have resulted in LeBoeuf's other, larger, clients missing out on the lucrative General American acquisition.

117. If LeBoeuf would have followed its own instructions, it would have ensured General American's Outside Board was presented with and fully considered the Mass Mutual offer; instead, LeBoeuf was complicit in the harpooning of this offer without any serious discussion before General American's Outside Board.

118. Similarly, despite LeBoeuf's purported evaluation of all other offers for General American, it failed to fairly present the offers that were received, and indeed, described the bid from Lincoln National as "inferior" despite the fact that it was by all reasonable measures a larger monetary recovery for General American's policyholder members.

119. LeBoeuf further described another offer for substantially more money as "inferior," without ever detailing to the General American Outside Board the dollar value offered.

120. LeBoeuf also failed to recommend that Lincoln National (and potentially others) be afforded an opportunity to present their offers and expressions of interest to the General American Outside Board (as LeBoeuf's larger client MetLife was allowed to), and failed to recommend that General American submit a counterproposal or negotiate at all with Lincoln to see if their offer could be further improved. Instead, LeBoeuf made no efforts at all to keep Lincoln in the bidding process and did nothing to ensure that General American's Outside Board was even aware of the last offer from Lincoln National.

121. LeBoeuf instead recommended that its more lucrative client MetLife ultimately be allowed to purchase General American for \$1.2 billion, and that recommendation was approved by General American's Outside Board, in reliance upon LeBoeuf's representations.

122. Despite LeBoeuf's recommendation of the acceptance of MetLife's offer, MetLife's internal calculations projected that General American was actually worth anywhere from \$1.55 to \$1.95 billion dollars. Accordingly, even prior to the consummation of the sale, MetLife expected to gain anywhere from \$300 to \$700 million dollars on the purchase of General American, \$300 to \$700 million dollars that rightfully belonged to the policyholder members of General American.

**G. LeBOEUF HIDES ITS ACTIONS**

123. Subsequent to the collapse of General American, Plaintiffs began an exhaustive investigation into the parties and principals that caused or contributed to cause General American's demise.

124. As part of this investigation, Plaintiffs interviewed dozens of individuals, employees, and advisors who worked with or for General American.

125. In support of this investigation, Plaintiffs sought all records from LeBoeuf which referred to or reflected LeBoeuf's legal representation of General American, as well as all documents generated by LeBoeuf's strategic planning services provided to General American.

126. As Plaintiffs were the statutory successors to General American, these documents belonged to Plaintiffs.

127. Despite its continued obligations to its client General American, (and by statutory succession, Plaintiffs), LeBoeuf stonewalled Plaintiffs' requests.

128. In what can at best be described as an inappropriate effort to avoid legal and financial exposure for the conflicts, negligence, and self dealing which permeated its

representation of General American, LeBoeuf attempted to seek a waiver from Plaintiffs in exchange for producing the documents and submitting to interviews which it was already legally obligated to cooperate with.

129. Rejecting LeBoeuf's request (despite being then unaware of the full extent of LeBoeuf's conflicts and self-dealing) Plaintiffs expressly refused to give LeBoeuf a waiver. While Plaintiffs previously indicated a lack of "intent" to bring suit, that was well before the full extent of LeBoeuf's misdealing was revealed.

130. Exacerbating the conflicts which arose from its representations of Goldman Sachs, Morgan Stanley, and MetLife, LeBoeuf also sought to be allowed to represent co-defendant Liddy during Plaintiffs' investigation into General American's collapse.

131. Despite Liddy's intimate involvement in the collapse of General American, and despite LeBoeuf's continuing responsibilities and loyalties inherent in its roles as counselor and strategic planning advisor to General American and its Outside Board of Directors, LeBoeuf nonetheless again ignored the obvious conflicts and sought permission to be engaged as counsel for Liddy (thus further complicating its intermingled and already contradicting loyalties).

132. Recognizing from the outset this obvious conflict (once properly brought to its attention) and its potential detriment to the interests of General American's policyholder members, Plaintiffs denied LeBoeuf's request. Unfortunately, LeBoeuf never gave General American the opportunity to consider its other, substantial, and unwaiveable conflicts with ARM, Goldman Sachs, Morgan Stanley, and MetLife, and instead, chose to hide those conflicts and the extent of their reach throughout Plaintiffs' investigation.

## **V. CAUSES OF ACTION**

### **COUNT I LEGAL MALPRACTICE AGAINST LEBOEUF**

133. Paragraphs 1 through 132 are incorporated herein by reference.

134. As described in its December 3, 1998, engagement letter, LeBoeuf was engaged as legal counsel for General American with respect to its demutualization and initial public offering.

135. LeBoeuf's engagement continued throughout the proposed demutualization work and continued on into the advice to enter public Administrative Supervision, and the auction and sale process of General American.

136. Throughout this time, LeBoeuf had duties of confidentiality, diligence, honesty, and competence inherent in the client/counsel relationship.

137. LeBoeuf failed to use the degree of skill, care, and learning ordinarily used by members of the legal profession under similar circumstances in its representation of General American.

138. LeBoeuf negligently performed or in some instances, completely abandoned its duties, allowing its own interests and the interests of its other clients to create a conflict of interests between it and its client, General American. Specifically, LeBoeuf:

- (a) Failed to advise of the risks of SVO and the prospects that General American would incur a liquidity crisis;
- (b) Failed to speak up at the General American Board meetings they attended when the risks of SVO were not being properly conveyed by the other advisers to the Board;
- (c) Failed to speak up at the General American Board meetings they attended when other advisors to the Board recommended that General American not only continue SVO, but combine it with the most profitable line of business, and to grow it;

- (d) Failed to notify General American of the enhanced risk of SVO in the winter of 1998 and spring of 1999 based on its own due diligence, the downgrade of General American, and the financial condition of ARM;
- (e) Advised General American and the MDI that General American had no other choice but to go into Administrative Supervision;
- (f) Failed to advise General American that entry into Administrative Supervision, especially public supervision, would in effect be the end of General American and that it would not likely emerge from Administrative Supervision;
- (g) Misrepresented that Administrative Supervision was only a temporary measure to put General American back on its feet;
- (h) Advised General American that the Administrative Supervision should be made public, when the ordinary and customary means to do so is through private Administrative Supervision, especially if the goal is to maximize General American's chances to continue to survive as an enterprise;
- (i) Failed to consider alternatives available other than a sale of the company and, in particular, a sale to MetLife;
- (j) Failed to fully consider all bids that were submitted;
- (k) Advised that the Mass Mutual proposal should be rejected out of hand;
- (l) Advised that the Lincoln National offer was "inferior";
- (m) Failed to recommend that Lincoln National, Mass Mutual and others be invited to present offers and their views to the Outside Board of General American;
- (n) Failed to recommend that other bidders, like Lincoln National, be encouraged to make another improved bid by making a counteroffer and/or by advising of other bids and/or otherwise creating the best possible bidding environment;
- (o) Failed to ensure that the General American Outside Board was even aware of the latest offer from Lincoln National; and
- (p) Allowed the interests of its larger, more lucrative, clients Goldman Sachs, Morgan Stanley, and MetLife to come ahead of the interests of General American.

139. As a result of these failures and conflicts of interest, LeBoeuf failed to provide the honest, independent, competent and unconflicted legal advice to General American and its Outside Board of Directors.

140. As a direct result of these failures, negligence, and conflicts, General American and its policyholder members were damaged by the loss of approximately one billion dollars.

141. But for LeBoeuf's negligence, General American would have taken actions to reduce its exposure to SVO, and if necessary, deferred the pursuit of an initial public offering until these risks were adequately addressed, avoided public Administrative Supervision or, at a minimum, upon the receipt of unconflicted advice, would have achieved a sale price of several hundred million dollars more than the sale to MetLife recommended by LeBoeuf.

142. In breaching its duties as counselor to General American and its Outside Board of Directors, LeBoeuf acted out of its own financial self-interest and in a manner that reflects an evil motive and reckless indifference, justifying an award of punitive damages.

WHEREFORE, the Liquidators respectfully pray that this Court enter judgment in their favor and against LeBoeuf, on Count I and thereupon award the Liquidators, in their capacity as Liquidators of General American Mutual Holding Company actual damages in an amount that is fair and reasonable, disgorgement of LeBoeuf's profits and fees received in connection with these matters, punitive damages at or in excess of three billion dollars (\$3,000,000,000.00), the Liquidators' costs herein incurred, and such other and further relief as the Court deems just and proper.

**COUNT II**  
**NEGLIGENCE AGAINST LeBOEUF**

143. Paragraphs 1 through 142 are incorporated herein by reference.

144. As set forth previously herein, LeBoeuf had a duty to provide honest, competent, and accurate legal advice and reporting to General American and its Outside Board of Directors.

145. LeBoeuf, in bad faith, breached this duty and negligently withheld information regarding, ARM and the short term GIC product which General American reinsured with ARM, and the consequences of General American's entry into Administrative Supervision, or alternatively negligently failed to investigate the SVO product entirely, despite its duties and obligations to do so.

146. LeBoeuf's negligence caused General American to incorrectly believe that the short term GIC product was a stable and profitable business segment, that ARM was a stable partner for the reinsurance agreement, that Administrative Supervision was a viable option for continuing the company, and ultimately, that MetLife had presented the best possible offer for the purchase of General American's assets.

147. As a direct result of LeBoeuf's negligent acts and omissions, General American was damaged by over one billion dollars.

148. Correspondingly, GAMHC's policyholder members were substantially damaged by the collapse of General American.

149. LeBoeuf's negligence in its representations and misrepresentations to General American and its Outside Board of Directors was intentional and in those acts LeBoeuf acted out of its own financial self-interest and in a manner that reflects an evil motive and reckless indifference, justifying an award of punitive damages.

WHEREFORE, the Liquidators respectfully pray that this Court enter judgment in their favor and against LeBoeuf, on Count II and thereupon award the Liquidators, in their capacity as Liquidators of General American Mutual Holding Company actual damages in an amount that is fair and reasonable, disgorgement of LeBoeuf's profits and fees received in connection with these matters, punitive damages at or in excess of three billion dollars (\$3,000,000,000.00), the Liquidators' costs herein incurred, and such other and further relief as the Court deems just and proper.

**COUNT III  
BREACH OF FIDUCIARY DUTY AGAINST LeBOEUF**

150. Paragraphs 1 through 149 are incorporated herein by reference.

151. As set forth previously herein, LeBoeuf owed General American and its Outside Board of Directors fiduciary duties as a result of LeBoeuf's engagement to conduct strategic planning services including the duty of care, loyalty, good faith, and honesty, and to refrain from engaging in conflicts of interest and self-dealing.

152. As a professionally engaged, strategic planning consultant, LeBoeuf agreed to provide and was required to provide unbiased advice, information, analysis, and guidance relating to General American's strategic direction, including the use and management of General American's investment portfolio, and the determination of whether to pursue demutualization and ultimately an initial public offering.

153. Upon accepting an engagement as a strategic planner, LeBoeuf assumed the responsibility of becoming intimately familiar with General American in order to provide competent, unbiased, advice to General American's Outside Board of Directors.

154. LeBoeuf had a fiduciary relationship with, and owed fiduciary duties to General American.

155. LeBoeuf, intentionally, in bad faith, and/or with gross negligence breached its fiduciary duty to General American as alleged herein by, in bad faith, inappropriately advising General American's Outside Board of Directors to continue the sale of General American GICs, by failing to advise General American's Outside Board of Directors of the risks associated with the GICs, by encouraging General American's Outside Board of Directors to continue with the demutualization process and by failing to advise General American's Outside Board of Directors to take the steps necessary to avoid the liquidity crisis.

156. In addition, LeBoeuf intentionally, in bad faith, and/or with gross negligence, breached its fiduciary duties to General American and its Outside Board of Directors as alleged herein, by engaging in various conflicts of interest and/or breaches of business ethics, including but not limited to:

- (a) Simultaneously representing ARM, MetLife, Goldman Sachs, Morgan Stanley and General American despite their potentially adverse and/or directly adverse interests;
- (b) Failed to fully and properly disclose to General American and its Outside Board of Directors LeBoeuf's representation of ARM, MetLife, Goldman Sachs, and Morgan Stanley, including the full nature of its relationship and interests with respect to each of those entities, as well as the actual and potential conflicts created thereby;
- (c) Failed to obtain the written consent of General American and its Outside Board of Directors to this dual representation and conflict of interest (assuming this conflict was waiveable, which it was not);
- (d) Failed to establish, and/or follow adequate written procedures to address conflicts and ethical issues when providing strategic planning services of this nature;
- (e) Failed to strictly comply with the procedures that it did establish;
- (f) Failed to apprise General American and its Outside Board of Directors of the true status and risks of ARM's portfolio backing the SVO product as well as the extent of ARM's financial condition.

- (g) Failed to advise of the risks of SVO and the prospects that General American would incur a liquidity crisis;
- (h) Failed to speak up at the General American Board meetings they attended when the risks of SVO were not being properly conveyed by the other advisers to the Outside Board;
- (i) Failed to speak up at the General American Board meetings they attended when other advisors to the Outside Board recommended that General American not only continue SVO, but combine it with the most profitable line of business, and to grow it;
- (j) Failed to notify General American's Outside Board of the enhanced risk of SVO in the winter of 1998 and spring of 1999 based on its own due diligence, the downgrade of General American, and the financial condition of ARM;
- (k) Advised General American's Outside Board and the MDI that General American had no other choice but to go into Administrative Supervision;
- (l) Failed to advise General American's Outside Board that entry into Administrative Supervision would in effect be the end of General American and it would not likely emerge from Administrative Supervision;
- (m) Misrepresented that Administrative Supervision was only a temporary measure to put General American back on its feet;
- (n) Advised General American's Outside Board that the Administrative Supervision should be made public, when the ordinary and customary means to do so is through private Administrative Supervision, especially if the goal is to maximize general American's chances to continue to survive as an enterprise;
- (o) Failed to consider alternatives available other than a sale of the company and, in particular, a sale to MetLife;
- (p) Failed to fully consider all bids that were submitted;
- (q) Advised that the Mass Mutual proposal should be rejected out of hand;
- (r) Advised that the Lincoln National offer was "inferior";
- (s) Failed to recommend that Lincoln National, Mass Mutual and others be invited to present offers and their views to the Outside Board of General American;

- (t) Failed to recommend that other bidders, like Lincoln National, be encouraged to make another improved bid by making a counteroffer and/or by advising of other bids and/or otherwise creating the best possible bidding environment;
- (u) Failed to ensure that the General American Outside Board was even aware of the latest offer from Lincoln National; and
- (v) Allowed the interests of its larger, more lucrative, clients Goldman Sachs, Morgan Stanley, and MetLife to come ahead of the interests of General American.

157. As a direct result of LeBoeuf's breach of its fiduciary duties to General American and its Outside Board of Directors, General American was damaged by approximately one billion dollars.

158. In breaching its fiduciary duties to General American and its Outside Board of Directors, LeBoeuf acted out of its own financial self-interest and in a manner that reflects an evil motive and reckless indifference, justifying an award of punitive damages.

WHEREFORE, the Liquidators respectfully pray that this Court enter judgment in their favor and against LeBoeuf, on Count III and thereupon award the Liquidators, in their capacity as Liquidators of General American Mutual Holding Company actual damages in an amount that is fair and reasonable, disgorgement of LeBoeuf's profits and fees received in connection with these matters, punitive damages at or in excess of three billion dollars (\$3,000,000,000.00), the Liquidators' costs herein incurred, and such other and further relief as the Court deems just and proper.

**COUNT IV**  
**AIDING AND ABETTING THE CONDUCT OF GOLDMAN SACHS AND MORGAN**  
**STANLEY AGAINST LeBOEUF**

159. Paragraphs 1 through 158 are incorporated herein by reference.

160. As set forth previously herein, Morgan Stanley and Goldman Sachs owed General American and its Outside Board of Directors fiduciary duties including the duty of care, loyalty, good faith, and honesty, and to refrain from engaging in conflicts of interest and self-dealing.

161. As its investment bankers and financial advisors, Goldman Sachs and Morgan Stanley agreed to provide unbiased advice, information, and guidance relating to General American's financial situation and proposed demutualization to General American's Outside Board of Directors.

162. As its investment bankers and financial advisors, Goldman Sachs and Morgan Stanley assumed the responsibility of becoming intimately familiar with General American's financial condition in order to provide competent, unbiased, advice to General American's Outside Board of Directors.

163. Goldman Sachs and Morgan Stanley, intentionally, in bad faith, and/or with gross negligence breached their fiduciary duties to General American and its Outside Board of Directors as alleged herein, including by failing to advise General American's Outside Board of Directors of the substantial risks associated with the GICs and ARM's precarious financial condition, and indeed encouraging General American's Outside Board of Directors to continue and even grow the GIC business in support of management's desire to move forward with an initial public offering of General American.

164. In addition, Goldman Sachs and Morgan Stanley intentionally, in bad faith, and/or with gross negligence, breached their fiduciary duties to General American and its Outside Board

of Directors as alleged herein, by engaging in various conflicts of interest and/or breaches of business ethics, including but not limited to:

- (a) Morgan Stanley met with and accepted the engagement with ARM when Morgan Stanley was already representing General American and its Outside Board of Directors and knew that its interests were potentially adverse and/or directly adverse;
- (b) Morgan Stanley simultaneously represented both ARM and General American despite their potentially adverse and/or directly adverse interests;
- (c) Morgan Stanley failed to fully and properly disclose to General American and its Outside Board of Directors Morgan Stanley's proposed and/or actual representation of ARM, including the full nature of its relationship and interests with respect to ARM, as well as the actual and potential conflicts created thereby;
- (d) Morgan Stanley failed to obtain the written consent of General American and its Outside Board of Directors to this dual representation and conflict of interest (assuming this conflict was waiveable, which it was not);
- (e) Morgan Stanley failed to establish adequate written procedures to address conflicts and ethical issues of this nature;
- (f) Morgan Stanley failed to strictly comply with the procedures that it did establish;
- (g) Morgan Stanley disclosed to ARM information about General American that was unfavorable and detrimental to General American's interests;
- (h) Morgan Stanley failed to apprise General American and its Outside Board of Directors of the true status and risks of ARM's portfolio backing the Stable Value product as well as the extent of ARM's precarious financial condition;
- (i) Morgan Stanley failed to disclose to General American and its Outside Board of Directors, Morgan Stanley's efforts to pump up ARM to keep it afloat, its efforts to design and implement a strategy for ARM to remove itself from the 7-day GIC burden, its recommendation that ARM find a new or different reinsurance partner than General American and its motives for doing the same;
- (j) Morgan Stanley represented ARM against General American in connection with the reinsurance recapture transaction including assisting

ARM in procuring substantial fees and other consideration from General American in order to recapture the assets held by ARM in trust;

- (k) Goldman Sachs simultaneously represented both MetLife and General American despite their potentially adverse and/or directly adverse interests;
- (l) Goldman Sachs failed to fully and properly disclose to General American and its Outside Board of Directors Goldman Sachs' representation of MetLife, including the full nature of its relationship and interests with respect to MetLife, as well as the actual and potential conflicts created thereby;
- (m) Goldman Sachs failed to obtain the written consent of General American and its Outside Board of Directors to this dual representation and conflict of interest (assuming this conflict was waiveable, which it was not);
- (n) Goldman Sachs failed to establish adequate written procedures to address conflicts and ethical issues of this nature;
- (o) Goldman Sachs failed to strictly comply with the procedures that it did establish;
- (p) Goldman Sachs disclosed to MetLife information about General American that was unfavorable and detrimental to General American's interests;
- (q) Goldman Sachs failed to apprise General American and its Outside Board of Directors of the true status and risks of ARM's portfolio backing the Stable Value product as well as the extent of ARM's precarious financial condition; and
- (r) Goldman Sachs failed to provide General American with the a contracted for repo agreement and/or credit facility; or alternatively well prior to the onset of the liquidity crisis inform General American that Goldman Sachs would not provide the credit facility in a liquidity crisis situation so that General American would not rely on its presence, and/or as General American's financial advisor, inform General American that it had to have a credit facility in place to make the GIC product viable.

165. As a direct result of Morgan Stanley's and Goldman Sachs's breaches of their fiduciary duties to General American and its Outside Board of Directors, General American and its policyholder members were damaged by over one billion dollars. LeBoeuf aided and abetted Goldman Sachs and Morgan Stanley in their breaches of fiduciary duties by countenancing and

approving Goldman Sachs and Morgan Stanley's acts, by failing to warn General American of the nature of Morgan Stanley's relationship with ARM, and Goldman Sachs relationship with MetLife and by acquiescing to Morgan Stanley's and Goldman Sachs' recommendations relating to the same. In breaching its fiduciary duties to General American and its Board of Directors, and in countancing and approving the acts of Morgan Stanley and Goldman Sachs, LeBoeuf acted out of its own financial self-interest and in a manner that reflects an evil motive and reckless indifference, justifying an award of punitive damages.

WHEREFORE, the Liquidators respectfully pray that this Court enter judgment in their favor and against LeBoeuf, on Count IV and thereupon award the Liquidators, in their capacity as Liquidators of General American Mutual Holding Company actual damages in an amount that is fair and reasonable, disgorgement of LeBoeuf's profits and fees received in connection with these matters, punitive damages at or in excess of three billion dollars (\$3,000,000,000.00), the Liquidators' costs herein incurred, and such other and further relief as the Court deems just and proper.

**COUNT V  
BREACH OF FIDUCIARY DUTY AGAINST LIDDY**

166. Paragraphs 1 through 165 are incorporated herein by reference.

167. As set forth previously herein, Liddy owed General American and its Outside Board of Directors fiduciary duties as a result of Liddy's position as President and CEO of General American.

168. As President and CEO, Liddy was required to provide analysis, information, and guidance relating to General American's strategic direction, including the use and management of General American's investment portfolio.

169. As CEO of General American, Liddy, assumed the responsibility of becoming intimately familiar with General American in order to provide competent, unbiased, advice to General American's Outside Board of Directors.

170. Liddy had a fiduciary relationship with, and owed fiduciary duties to General American.

171. Liddy breached his fiduciary duty to General American as alleged herein by, in bad faith, inappropriately advising General American's Outside Board of Directors to continue the sale of General American GICs, and by failing to advise General American's Outside Board of Directors of the risks associated with the GICs.

172. As a direct result of Liddy's breach of his fiduciary duty General American was damaged.

173. Correspondingly, GAMHC's policyholder members were substantially damaged by the collapse of General American.

174. In breaching his fiduciary duties to General American and its Outside Board of Directors, Liddy acted out of his own financial self-interest and in a manner that reflects an evil motive and reckless indifference, justifying an award of punitive damages.

WHEREFORE, the Liquidators respectfully pray that this Court enter judgment in their favor and against Liddy, on Count V and thereupon award the Liquidators, in their capacity as Liquidators of General American Mutual Holding Company actual damages in an amount that is fair and reasonable, punitive damages at or in excess of three billion dollars (\$3,000,000,000.00), the Liquidators' costs herein incurred, and such other and further relief as the Court deems just and proper.

**COUNT VI  
NEGLIGENCE AGAINST LIDDY**

175. Paragraphs 1 through 174 are incorporated herein by reference.

176. As set forth previously herein, Richard Liddy had a duty to provide honest, competent, and accurate advice and reporting to General American and its Outside Board of Directors.

177. Liddy, in bad faith, breached this duty and negligently withheld information regarding the short term GIC product.

178. Liddy's negligence caused General American to incorrectly believe that the short term GIC product was a stable and profitable business segment.

179. As a direct result Liddy's negligence, General American was damaged.

180. Correspondingly, GAMHC's policyholder members were substantially damaged by the collapse of General American.

181. In breaching his duties to General American and its Outside Board of Directors, Liddy acted out of his own financial self-interest and in a manner that reflects an evil motive and reckless indifference, justifying an award of punitive damages.

WHEREFORE, the Liquidators respectfully pray that this Court enter judgment in their favor and against Liddy, on Count VI and thereupon award the Liquidators, in their capacity as Liquidators of General American Mutual Holding Company actual damages in an amount that is fair and reasonable, punitive damages at or in excess of three billion dollars (\$3,000,000,000.00), the Liquidators' costs and expenses herein incurred, and such other and further relief as the Court deems just and proper.

**COUNT VII**  
**NEGLIGENT MISREPRESENTATION AGAINST LIDDY**

182. Paragraphs 1 through 181 are incorporated herein by reference.

183. As set forth previously herein, Richard Liddy negligently and in bad faith, made misrepresentations to General American's Outside Board of Directors. These misrepresentations occurred during the course of Liddy's tenure as Chairman and CEO of General American.

184. The misrepresentations made by Liddy were false due to Liddy's failure to exercise reasonable care.

185. General American justifiably relied on the information provided by Liddy.

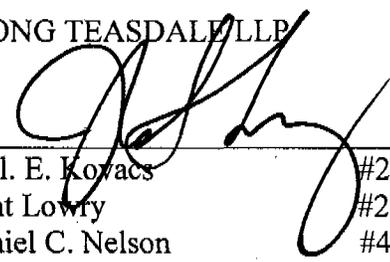
186. As a direct result of General American's reliance on Liddy's misrepresentations, General American was damaged.

187. Correspondingly, GAMHC's policyholder members were substantially damaged by the collapse of General American.

WHEREFORE, the Liquidators respectfully pray that this Court enter judgment in their favor and against Richard Liddy on Count VII and thereupon award the Liquidators, in their capacity as Liquidators of General American Mutual Holding Company actual damages in an amount that is fair and reasonable and further award the Liquidators their costs, expenses, and such other and further relief as the Court deems just and proper.

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