

prayer of the original Petition for Damages, the First Amendment to Petition for Damages, the Second Amendment to Petition for Damages, the Third Amendment to Petition for Damages, the Fourth Amendment to Petition for Damages, and the Fifth Amendment to Petition for Damages (which are incorporated herein, including all exhibits thereto), except as amended, altered and supplemented by this Sixth Amendment to Petition for Damages.

3.

By amending, adding, and reiterating the following unlawful acts of the State Regulatory Defendants to the allegations of the original Petition for Damages, the First Amendment to Petition for Damages, the Second Amendment to Petition for Damages, the Third Amendment to Petition for Damages, the Fourth Amendment to Petition for Damages, and the Fifth Amendment to Petition for Damages:

- (a) Fred C. Dent, Douglas D. Green, Thomas Bentley, Malcolm Ward, and other employees and public servants of the State of Louisiana, while acting within the course and scope of their employment for either the State of Louisiana through the Department of Insurance, the State of Louisiana through the Office of Financial Institutions, the Department of Insurance of the State of Louisiana, and/or the Office of Financial Institutions of the State of Louisiana, (herein collectively referred to as the "State Regulatory Defendants") systematically engineered, manipulated, and acquired control over the corporations making up the group of insurance companies referred to in the various petitions, in which the Petitioners had an interest, or held policies, annuities, or other instruments, so that they could supervise the transfer of assets out of these companies and into, directly or indirectly, a company covered by the Louisiana Insurance Guaranty Association Fund ("LIGA Fund"). The State Regulatory Defendants, including the aforementioned employees and public servants, engaged in this unlawful behavior in order to, among other things, prevent the failure of a company covered by the LIGA Fund, to secure financial gain and advantage for the State of Louisiana.
- (b) The State Regulatory Defendants, including the aforementioned employees and public servants while acting within the course and scope of their employment, victimized the Petitioners by means of furthering and acquiescing in a complex scheme to defraud them individually. This scheme involved a complex organization of interrelated and interdependent corporations, some of which began as legitimate business operations, others of which never had legitimate purposes and were deliberately designed and established to carry out various aspects of the fraud alleged herein. The State Regulatory Defendants, including these employees and public servants while acting within the course and scope of their employment, unlawfully took control of these corporations and induced the Petitioners into depositing monies into the various companies of the corporation. The Petitioners were then systematically deprived of these monies by the State Regulatory Defendants.
- (c) While acting within the course and scope of their employment the

government state employees and public servants were charged with regulating and supervising insurance and investment companies doing business in the State of Louisiana. These employees and/or public servants and the State Regulatory Defendants owed a fiduciary duty to the Petitioners to ensure that companies under their control and supervision, and entrusted with the Petitioners' monies, were in compliance with State law applicable to their operation. The State Regulatory Defendants, and these employees and public servants while acting within the course and scope of their employment, through outrageous misconduct, willfully, intentionally, flagrantly, and/or fraudulently, through wrongful misrepresentation, conversion of funds, misappropriation of funds, misfeasance, malfeasance, and/or negligence, breached these fiduciary duties and all other duties to Petitioners, as more specifically alleged throughout the original and amended Petitions for Damages.

- (d) Additionally, at times relevant to the allegations of the various petitions, the State Regulatory Defendants, including the aforementioned employees and public servants, owed the Petitioners the fiduciary duties of honesty and loyalty. These contractual obligations arose from the employment and/or public servant relationship of Fred C. Dent, Douglas D. Green, Thomas Bentley and other aforementioned employees and public servants of the State of Louisiana, and/or State Regulatory Defendants. For the reasons as asserted in the various petitions, the State Regulatory Defendants, including the aforementioned employees and public servants while acting within the course and scope of their employment, breached the obligations of honesty and loyalty owed to the Petitioners and, thereby, deprived the Petitioners of their property.

3.

By reiterating, re-averring and re-alleging each and every other allegation and prayer of the original Petition for Damages, the First Amendment to Petition for Damages, the Second Amendment to Petition for Damages, the Third Amendment to Petition for Damages, the Fourth Amendment to Petition for Damages, and the Fifth Amendment to Petition for Damages (which are incorporated herein, including all exhibits thereto), except as amended, altered and supplemented by this Sixth Amendment to Petition for Damages, against all parties previously made Defendants in this suit.

Wherefore, Petitioners pray that this Sixth Amendment to Petition for Damages be filed and that the original Petition, the First Amendment to Petition for Damages, the Second Amendment to Petition for Damages, the Third Amendment to Petition for Damages, the Fourth Amendment to Petition for Damages, and the Fifth Amendment to Petition for Damages be altered, amended and/or supplemented accordingly, and that the Defendants be served with a certified copy of this Sixth Amendment to Petition for Damages and duly cited to appear and answer same and that the acts and omissions

of Defendants, as described herein, entitle the Petitioners to a judgment against the Defendants jointly, severally and in solido, as follows:

- (a) Rescinding their purchases of insurance policies, annuities, notes and any other interest held by any equity owners, or holders of some other financial interest, as the case may be, awarding them restitution of all monies tendered and consideration paid therefor, and ordering legal interest from the date the consideration was paid by each Petitioner; and
- (b) Alternatively, for all damages, including, but not limited to, the following:
 - (i) Loss of insurability by certain Petitioners who became uninsurable over an extended period of time during which Defendants continued to engage in acts and omissions as herein alleged, and concealment by the Defendants of the financial condition of the insurance companies named herein;
 - (ii) Loss of payment of insurance and annuity proceeds and other amounts due and payable, as a consequence of the occurrence of events covered by insurance and annuity contracts between certain Petitioners and the insurance companies referred to herein;
 - (iii) Loss of cash values and any other amounts (together with any and all additions thereto, including, but not limited to, dividends and interest) accrued under and in accordance with insurance and annuity contracts between certain Petitioners and the insurance companies referred to herein;
 - (iv) Loss of premiums and any other consideration paid for all insurance and annuity contracts that were in fact worthless when purchased or which became worthless during such time periods that the companies named herein were hopelessly insolvent and during which time period such insolvency was concealed by the Defendants and/or such companies were misrepresented by the Defendants to be solvent thereby causing and/or inducing Petitioners to pay said premiums;
 - (v) Loss of principal and any other consideration invested in annuity contracts and income and additions accrued and accumulated on said amount or amounts invested in annuity contracts issued by the insurance companies referred to herein to certain Petitioners;
 - (vi) Loss of principal and any other consideration invested in notes and other securities, instruments, and contracts together with all income and additions accrued and accumulated on or in connection with same) between certain Petitioners and companies referred to herein;
 - (vii) Impairment of the financial condition and credit worthiness of certain Petitioners;
 - (viii) Losses of homes, farms, businesses, income, profits and any and all immovable and movable property by certain Petitioners resulting from the financial ruin of these certain Petitioners due to the failure and collapse of the companies named herein;
 - (ix) Damages to financial standing and reputation of certain of the Petitioners;

- (x) Pain, suffering, embarrassment, humiliation, emotional distress, and mental anguish resulting from the financial chaos and ruin experienced by the Petitioners;
- (xi) Loss of principal, dividends, and interest in connection with any interest of any equity owners, or holders of some other financial interest in, or effected by, Public Investors Life Insurance Company and/or Midwest Life Insurance Company, and/or Public Investors, Inc.
- (xii) Any and all other damages of every nature and kind suffered and to be suffered by Petitioners as a consequence of the acts and omissions of the Defendants.

Petitioners also pray for Judgment against the Defendants jointly, severally, and in solido, for attorney's fees, judicial interest, costs, and all expenses of these proceedings and for any and all other general and equitable relief.

WHEREFORE, the Petitioners pray that there be judgment for monetary damages in their favor and against the Defendants, and for such other and further relief as law, equity and the nature of the case may require.

The Petitioners respectfully pray for a trial by jury, to the full extent permitted by law.

Respectfully submitted, this 3RD day of SEPTEMBER, 1996.

PERCY, SMITH & FOOTE

David P. Smith (by SODOR)
DAVID P. SMITH, #12159
720 Murray Street
Alexandria, LA 71309-1632
Telephone: (318) 445-4480

LADSON, ODOM & DES ROCHES, LLP

Stuart E. DesRoches
JOHN GREGORY ODOM, #1109
STUART E. DES ROCHES, # 21902
35th Floor, Place St. Charles
201 St. Charles Avenue
New Orleans, LA 70170
Telephone: (504) 522-0077

CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been served on all parties herein by depositing copies of the same in the United States Mail, postage prepaid and properly addressed to them through their counsel of record herein on this the 3RD day of September, 1996.

Stuart E. DesRoches
OF COUNSEL

PLEASE SERVE:

1. **THE STATE OF LOUISIANA** through the Department of Insurance by serving James H. "Jim" Brown, its Commissioner, Baton Rouge, Louisiana.
2. **DEPARTMENT OF INSURANCE OF THE STATE OF LOUISIANA** by serving James H. "Jim" Brown, its Commissioner, Baton Rouge, Louisiana.
3. **THE STATE OF LOUISIANA**, through the Commissioner of the Office of Financial Institutions by serving Larry L. Murray, its Commissioner, Baton Rouge, Louisiana.
4. **OFFICE OF FINANCIAL INSTITUTIONS OF THE STATE OF LOUISIANA**, by serving Larry L. Murray, its Commissioner, Baton Rouge, Louisiana.
5. **THE STATE OF LOUISIANA** by serving its Attorney General, Richard Ieyoub, Baton Rouge, Louisiana.

