

RETURN DATE: APRIL 5, 2005

-----X		STATE OF CONNECTICUT
RICHARD BLUMENTHAL, Attorney	:	SUPERIOR COURT
General of the State of Connecticut	:	
	:	JUDICIAL DISTRICT OF
Plaintiff,	:	HARTFORD
	:	
v.	:	
	:	
AON CORPORATION and	:	
AON CONSULTING, INC.	:	
	:	
	:	MARCH 4, 2005
Defendants.	:	
-----X		

1. This is an action under the Connecticut Unfair Trade Practices Act (“CUTPA”), Chapter 735a of the Connecticut General Statutes, and more particularly, Conn. Gen. Stat. § 42-110m(a), to obtain relief against the Defendant’s alleged violations of Conn. Gen. Stat. § 42-110b(a), prohibiting unfair and deceptive acts and practices, for such other relief as is necessary to redress injury to consumers resulting from the Defendant’s violations of law, and for civil penalties.

SUMMARY OF THE CASE

2. For years, Connecticut consumers, including numerous municipalities and educational institutions, have paid hundreds of thousands of dollars to Aon Consulting to obtain the best professional advice so that they could get the best insurance coverage for the best price. Aon, in violation of its fiduciary duties to its clients, and insurers including Aetna, Inc. and

Anthem Blue Cross Blue Shield, entered into undisclosed, secret, back-door agreements to receive ‘bonus’ commissions, also called overrides or contingent commissions, which were in essence, kickbacks, to steer or retain business. Aon fought hard for these “pay-to-play” bonuses and Aon and Aetna and Anthem worked hard to make sure the Connecticut consumers did not know – or fully understand – the true nature of these agreements. Even in cases where brokers had contracts with their clients obligating disclosure or were required to disclose these excess commissions on IRS forms, Aon did not inform its clients of these payments even when clients asked, a silence and deception that Aetna and Anthem were at least complicit in. The costs of these hidden payments to brokers -- payments generally much higher than the fees paid by the clients to the brokers -- were folded into the overall premiums paid. This generated higher costs for all consumers including municipalities and educational institutions, a fact that was fully recognized by both the brokers and the insurers. Ultimately, consumers and municipal taxpayers were harmed, and the free and open market for insurance was crippled by these deliberate and unscrupulous practices.

PARTIES

Plaintiff

3. The plaintiff is the State of Connecticut, represented by Richard Blumenthal, Attorney General, acting at the request of Edwin R. Rodriguez, Commissioner of Consumer Protection, pursuant to the authority of Chapter 735a of the General Statutes, more particularly, Conn. Gen. Stat. § 42-110m(a).

Defendant

4. Aon Corporation is a Delaware insurance brokerage and consulting corporation with offices in Connecticut with a business address at 200 E. Randolph St., Chicago, Illinois and is the parent corporation for Aon Consulting, Inc.

5. Aon Consulting, Inc. (“Aon,” together with Aon Corporation, the “Defendant”) is a New York insurance brokerage and consulting corporation registered as a foreign corporation with the Connecticut Secretary of State with an office at 333 East River Drive, East Hartford, Connecticut. At all times material to this complaint, Aon transacted business in the State of Connecticut including, but not limited to, providing insurance consulting and brokerage services.

6. Whenever reference is made in this complaint to any representation, act or transaction of the Defendant, such allegation shall be deemed to mean that the principals, officers, directors, employees, agents or representatives while actively engaged in the course and scope of their employment, did or authorized such representations, acts, or transactions on behalf of said Defendant.

PRELIMINARY FACTUAL ALLEGATIONS

The Insurance Industry — What You Don’t Know May Cost You.

7. There are four primary actors in the health insurance and group employee benefits insurance market. First, there are employers, private and public sector, seeking to purchase group health, life, accident or disability insurance for their employees. Second, there are employees who are eligible to enroll in employee benefits insurance plans sponsored by their

employers. Third, there are insurance consultants and brokers like Aon, who have specialized knowledge of insurance and are retained by employers to design benefit plans and help select the appropriate insurer. Brokers use the terms “broker,” “producer” and “consultant” interchangeably to describe themselves to their clients and potential clients. (Consultants, producers, and brokers are collectively referred to herein as “brokers.”) Brokers solicit requests for proposals (“RFPs”) from insurers; present insurers’ proposals to employers; recommend the optimal proposal for the employer; and represent the employer in negotiations with the insurer. Finally, there are insurers. Insurers rarely sell insurance directly to the larger employers; they almost always sell through brokers.

8. Prior to 1984, the insurance brokerage industry included a number of brokerage and consulting organizations which provided a healthy degree of competition for the medium and large capitalized commercial and public sector market. Within the last two decades, however, there has been a sea change in the industry, which has led to a significant consolidation in the brokerage industry, largely due to mergers and acquisitions by a few key firms. This consolidation has left the few remaining brokers with considerable market power, and thus influence, in the market.

9. Aon, for example, has acquired various companies including Alexander & Alexander in East Hartford, Connecticut. Aon is a Fortune 500 corporation and the second largest provider of insurance brokerage and consulting services in the world. The company has in excess of 50,000 employees in 600 offices worldwide and, according to its 2003 financial

statement, generates annual revenues of approximately \$9.8 billion. Aon's insurance brokerage and consulting business operates nationwide through several regional offices and derives revenue from, among other places, business transacted within the State of Connecticut. In addition to its commercial clients, Aon also has acted as an insurance broker for several towns and cities in Connecticut, such as Hartford, Bristol, Bloomfield, Wilton, and Manchester. Aon's clients also include non-profit educational and other organizations such as Yale University.

10. Aon holds itself out to its clients as a trusted expert in the analysis and placement of insurance policies. Municipalities, educational institutions, businesses and individuals who need insurance retain Aon to help them design an insurance plan and negotiate with insurance companies to get the best mix of coverage, service, financial security and price.

11. As put forth in one of Aon's sales brochures: "Our mission is simply this, 'To provide our clients with the highest level of service.' Our employees work for you with your goals and objective always at the forefront." Aon insists that its clients' goals are realized "by placing our clients first at all times."

12. Even its name connotes a solitary purpose to serve its clients. As its internet website states: "Our name is Gaelic for 'oneness.' We live by our name by bringing together top professionals who work across hundreds of disciplines in a seamless, integrated fashion designed to serve our clients in the most custom-tailored manner possible, virtually anywhere in the world. This focus and dedication has made us a world leader within our industry."

13. Aon trumpets its size and expertise as the tools by which it can deliver unsurpassed service to its clients. Its webpage announces: “Aon has developed a global network of local resources brought together through Global Business Units and a Strategic Account Management system. This enables us to deliver services around the world, but with the local expertise necessary to doing business in specific locations. This depth can be brought to the service of multinational companies, small businesses, independent agents or brokers, associations and affinity groups, and even individual consumers. With our expertise around the world, you can rely on Aon to help insure your vision.”

14. According to its agreements with its clients, Aon’s compensation for its consulting and brokerage services generally derives from: (i) a flat fee or (ii) commissions representing a percentage of the premiums paid by its client employers and their employees.

15. What the client agreements have generally not disclosed, however, is that Aon has also had separate side arrangements with a select group of preferred insurers, including, among others, Aetna, Inc. (“Aetna”) and Anthem Blue Cross Blue Shield (“Anthem”), under which it has demanded and received additional incentive payments. These arrangements – variously known in the industry as “special producer agreements,” “quality business incentives awards,” “preferred broker compensation plans,” “competitive bonus programs” and “extra compensation agreements” – are generally referred to as “overrides,” “bonuses” or, in some cases, “kickers.” Brokers and insurers used these various terms interchangeably, and the agreements by which these bonus payments were made were, in actuality, a subterfuge: purporting to reimburse the

broker for “services,” while serving as camouflage to provide a conduit for the broker to receive kickbacks.

16. However characterized, these agreements created an improper incentive for Aon to steer business to preferred insurers.

Bonuses and Contingent Commissions – You Pay To Play

17. Brokers receive from certain insurers additional compensation, as set forth above, in the form of “overrides,” “bonuses,” or “contingent commissions.” The specific terms of these override arrangements have varied, but they have commonly required the insurer to pay the broker an annual payment based on one or more of the following: (1) the amount of business the broker’s clients place with the insurer; (2) the “persistency rate,” which is the number of the broker’s clients that maintain or renew their policies with the insurer; and (3) the profitability of the business placed by the broker.

18. These override agreements have been extraordinarily profitable. In 2003, for example, Aon received approximately \$200 million in override or contingent commissions, and Aon Consulting’s operations in Connecticut enabled the company to capture millions of dollars in commissions.

19. More than money could be involved in these override and contingency agreements. Some insurers lavish trips or home electronics. One insurer announced to Aon producers that “[we] want your business! In exchange for your business, we want you to be our guest at a [company] Platinum Rewards event in 2004. Based on the total number of new or

retained [company] Members you write this year you can qualify to join us at one of these three great destinations.” These destinations included The Hilton at Torrey Pines, California, the Ritz Carlton at Half Moon Bay, California, and the Grand Wailea in Maui, Hawaii.

20. The compensation and additional benefits Aon reaped from insurers contributed significantly to the company’s bottom line and represented a significant payout for the insurers. According to a single insurance company, total incentive programs, including cash, stock plans and forgiveness of loans totaled more than \$136 million in 2000, \$147 million in 2001, and almost \$224 million in 2002; and this represents only one of dozens of insurance carriers.

21. Because insurers generally calculate the override payments based on the placement, profitability, and renewal of their business with Aon’s client employers, these arrangements have the potential to compromise Aon’s objectivity and improperly influence its brokerage and consulting decisions by directing business to insurers that pay overrides and withholding business from those that do not.

22. Insurers have found contingent commissions and other overrides to be a necessary element of dealing with brokers like Aon. As one Aetna manager stated: “With [a major broker] if we don’t have an override we should not call on them. Monday they flat out told us if we want to write business we need to have an override end of story.”

23. Aon in particular made sure insurers like Aetna knew the rules. An Aetna email related: “Attached is our agreement with Aon’s suggested revisions. . . .They also made it clear

that the lack of an override puts us at a severe disadvantage. This is evidenced by the fact that we haven't written a case with them in several years.”

24. Brokers were not shy about making sure the insurance companies got the message – the quality of the product and service were irrelevant – to sell insurance the carriers would have to pay overrides. An Aetna internal email noted: “Our SE Region Broker Conference at the Cloister was a great success [a]fter a nice exchange of comments one of the brokers made a comment that changed the direction of the discussion ‘you guys just don’t get [it], price and ease of administration is not the issue. . . . it’s my compensation.’ (emphasis in original.) He then proceeded to describe the special override arrangements he had with [several insurance companies] (all 5500 non disclosed). . . . that would preclude him from ever giving us his Life/Disability business. The others around the table chimed in with full agreement.”

25. The brokers at this conference suggested a very simple approach to financing these additional contingent override arrangements: just increase the rates charged to customers in order to raise the cash necessary to pay more to brokers and the brokers would find a way to sell the product. As the Aetna manager related it: “Their comments: Load the rates for additional comp and you’ll start to get business. If the comp is right they will sell the rates.”

26. Aetna understood the consequences of failing to accede to these demands. “[A broker] indicated that he had 400+ . . . accounts and that half used to be with Aetna . . . til they made cutbacks in Commissions Now Aetna has none. He indicated that [Aetna] had the lowest rates in the county [sic] . . . but he gave business to BXBS [Blue Cross Blue Shield]

because of commissions. He told us to load our rates 5-10% (give him ½) and we'd get all his business. I know we have done some national deals with Marsh and Aon . . . but we are still not viewed as big players when it comes to commissions. . . .”

27. Ultimately, however, the insurance carriers found that, not only did they need to have override or special producer agreements to do business, they could then use these agreements to “influence” the brokers and sell product, even if it was not the best quality insurance on the market. As an insurance executive noted “[c]ontingent [c]ommission plays an important role in managing and influencing our distribution network.” (emphasis in original.)

28. Insurers have benefited significantly from their dealings with brokers and, consequently, they worked in concert with brokers to conceal these side arrangements from their mutual clients. They have actively concealed information regarding payments made to brokers, including failing to disclose such payments in mandatory public filings. When clients inquired regarding the sources of their brokers’ compensation, insurers have evaded, obfuscated and, in many cases concealed the existence of such compensation. The insurers know that cooperating with the brokers, including Aon, to conceal these side arrangements is part of the “quid pro quo” for obtaining business.

29. The losers in all of this, of course, are the clients. For example, Yale University was denied the opportunity to have clear and unbiased advice about needed life, health, and other insurance, because of the conduct of the Defendant broker.

B. Aon Pledges To Serve Its Clients' Interests

30. As a fiduciary must, Aon claims to put its clients' interests first. "Our mission is simply this, '[t]o provide our clients with the highest level of service'" and that Aon works "by placing our clients first at all times." The brochure concludes: "[w]e meet our clients' needs with integrity, creativity, and knowledge."

31. Aon's internet webpage is clear: "[o]ne of our core values is always maintaining a client focus. We recognize the unique needs of different client groups and our professionals specialize by product, function, and client industry – all coordinated by strategic account managers, or relationship managers, who factor in a holistic view of the client's needs. By truly listening to our clients and working with them as a partner, we can best develop solutions that work seamlessly with their business. Only in this manner can we help clients uncover risks and discover new opportunities to make their businesses more successful, now and into the future."

32. It continues: "Aon's business is structured to deliver the best, most effective solutions to our clients around the world."

The Pot of Gold at the End of The Rainbow -- Brokers Receive Undisclosed Payments

33. Brokers' receipt of secret override payment arrangements have created potential and actual conflicts with the interests of its clients.

34. The power of the brokers like Aon to insist on overrides came to influence the behavior of the insurance companies. Brokers often dangled their clients in front of the insurers, offering their business in return for additional fees. As one insurance executive complained: "A

practice is arising of reactively asking for an override agreement because an individual case is available if we will give them what they want.”

35. In turn, the insurers recognized the ability to “influence” brokers with contingency fee arrangements. “AON [is] definitely influenced by these arrangements.” As one Aetna executive put it, overrides have the potential to “take away the objectivity consultants are so protective of [].”

36. In fact, to ensure they received a slice of the client pie, insurance companies began the process of changing the incentive programs to direct payments to the brokers at the local office level. As one Aetna document notes “Comments are consistent in saying we shouldn’t spend the money on this unless we’re certain the local producer is rewarded for placing the business with Aetna.” Yet another Aetna manager triumphantly emailed his colleagues: “Hi guys. In order to write a large case . . . we offered them a 3% override on all business they write in 2003 It looks like we got a couple of cases totaling at least \$500,000 [s]o, the good news is that the override is working by design and incenting him to place business with us.”

37. As one insurance executive vice president wrote to a broker: “[o]ur definition of ‘incentive’ is that you are financially motivated to act in [the insurer’s] best interests.”

38. Consequently, bonuses were allotted upon specific criteria, including “that the producer would give us a steady flow of business, \$2 million or more each year”

39. Insurers began to get enthusiastic and even glitzy when launching a new incentive program. Anthem, for example, introduced its “Large Group Bonus Program” to Aon with an

eye-catching announcement: “Now Anthem Gives You More Bonus Potential! Crack the Bonus Vault with your Anthem Large Group Health Sales and the money is yours” Another insurer placed a tasteful image of a rainbow leading to a pot-of-gold on the header of its new broker bonus announcement.

D. To Be On A “Level Playing Field” Insurers Worked To Conceal the Override Payments They Paid The Brokers Like Aon

40. As overrides and other “bonus” programs grew in revenue, and thus, importance, Aon and others became concerned that their clients, the ones paying them a commission for their professional services, would learn of these back door payments.

41. Federal law requires most private employers to disclose all compensation paid to brokers in connection with those employers’ purchase of ERISA-covered benefit insurance for their employees. This information must be reported on Form 5500 and be filed by the employer with the United States Department of Labor. The employer may not necessarily know the specific amounts and types of compensation (*i.e.*, commission, consulting payment, override, communication fees) the insurer has paid to the broker. As a result, the insurer usually prepares a schedule for the Form 5500 (“Schedule A” or “Form 5500”) on behalf of the employer, which reports the amount of compensation the insurer has paid to the employer’s broker. In the absence of disclosure of such compensation elsewhere, Schedule A provides an opportunity for employers and their employees to learn the total compensation the broker has received from an

insurer; if payments such as overrides, communication fees, and other payments are not disclosed on Schedule A, the employer and their employees may not learn of their existence.

42. However, as early as 2001, an Aetna e-mail on the subject of Aon and Marsh noted “[a] BIG issue we will have with the [large brokers] is ‘what do we do with those accounts where we are not currently paying any commissions (client is paying them directly) . . . plus the issue of these monies now possibly showing up on a 5500.’”

43. Brokers continued to push to have non-reported bonuses. At a major conference with brokers in September, 2003, brokers indicated a preference that “the expenses/funding not appear on the 5500 form.” Mercer, a Marsh subsidiary, added that having overrides on the 5500 “is not ideal for us because overrides and regular commissions might be combined on one amount, raising questions from clients on why our commission disclosures are less than [Form 5500] commission. . . . Is this a requirement that is set in stone or not? This could be a potential deal-breaker for us. . . .”

44. Brokers made their position very clear. For example, Aon complained “[u]nder the new program, we would receive no override revenue in 2003, except for the fourth quarter 2002 payment. This would cut our revenue more [than] 75%!” Aon was particularly concerned that it was not receiving overrides on cases where it was already being paid fees by its clients. “We currently receive nothing for cases like [a certain client] where we receive fees in lieu of commissions. We helped [that client] decide to place the business that ended up with Mutual. You should be paying us overrides on these cases as well; other carriers do.” Finally, “Reporting

on 5500: 2002 and 2003 override programs are reported on 5500s. We may prefer if it were off 5500. . . .”

45. Finally, in a particularly telling point, Aon insisted that it did not want disclosure on [Form 5500] of its bonus commissions when a client was already paying it fees. “[W]e would not want a [5500] entry if you start paying us overrides on noncommission business.” Summing up, Aon stated “your new program is unacceptable to us.”

46. Brokers continued to press for non-disclosed bonuses, and Aetna began to adapt. “Today, we do not have a contractual vehicle to pay 3%-5% of book of business premium, non-5500 disclosed. Probably end of April timeframe. . . .until then, the only vehicle we have is service fee payments, either single case or aggregate production.”

47. Ultimately, Aetna complied and introduced hidden override agreements. As Aetna informed Mercer: “The full amount will be 5500 reportable. . . . If this does not work, we can provide alternative options, such as a producer administrative agreement”

48. This “option” became quite popular. “Marsh is interested in having most of their bonus off of the 5500.” Other brokers followed suit to the point that an internal Aetna e-mail complained “We are encouraging our Producers to be paid MORE off of the 5500. I thought it was Aetna’s position to have bonus reportable.”

49. Brokers were clear; they wanted Aetna to comply with their efforts to conceal the override fees, and it worked. As one broker put it, “[o]ur ability to place business with Aetna . . . depends on your ability to address certain essential issues [including] . . . [a]n override

agreement custom to our operations. . . .” The broker insisted that any Form 5500’s must be sent to it and that other carriers “do not disclose [override] fees on the Schedule A Form 5500.” The broker concluded that “[w]ith satisfactory resolution to the above issues, Aetna is immediately placed on a ‘level playing field’ with other carriers”

50. All relevant insurance carriers were involved, not just Aetna. Another insurance company, in a letter to Aon, noted: “I’ve looked into the questions you raised relating to the terms of the override agreement. The override will not be represented on the Schedule A (based on present day standards).”

51. Similarly, a different insurer’s special override agreement for Aon, entitled the “Rewards & Recognition: Local Preferred Bonus” program, “is in addition to, not in place of standard [medical insurance] producer incentive program. . . . [and is] Non 5500 eligible. . . .”

52. Yet another insurance company also jumped on the nondisclosure bandwagon: “It is my pleasure to present the Brokers Contingent Commission Points Program Agreement between Aon Consulting and [insurer]. . . . The program is designed with three components: growth, loss ratio and retention. . . . with the potential of earning up to an additional 6% commission. The payment is based on annual paid business and is not reported on Form 5500.”

53. Not to be outdone, a different company offered Aon in 1999 “our new OVERRIDE PROGRAM. . . .” [we] “want[ed] to show our appreciation by inviting you to participate in our new, improved VIP Broker Incentive Program [which] provides additional compensation of up to \$100,000 over and above [our] standard broker commissions. This year

the program has an added benefit: monies awarded under the program will not be reportable on the 5500 form.”

54. Soon, Aon and the other major brokers were all receiving checks clearly identified as being non-disclosed under Schedule 5500 until state legal authorities began issuing subpoenas. Shortly thereafter, an e-mail was issued to Aetna personnel that “We do not offer ‘non-disclosable’ arrangements! This is critical.”

55. Nevertheless, even after the bonus commission scandal broke, payments continued to be made to certain brokers who continued to insist on concealed arrangements. As one broker emailed to Aetna: “What we would like to see is basically a 1% of premium override tied loosely to our overall book of business with Aetna and profitability on that book. As the discussions around disclosure of override contracts heats up we want to position these as arrangements as profit sharing of the overall book and not tied to a specific account.”

E. All Customers Foot the Bill - - You Load It, We’ll Sell It.

56. It became readily apparent to Aetna that the money to pay for these undisclosed ‘bonuses’ had to come from someone’s pocket. “One question. Will fees/pricing for firms with the overrides include some additional component to reflect the cost? I’m concerned about all of our customers’ pricing including some additional component to recover this cost. I’m not suggesting we’ll recover everything, but I do think it’s unreasonable for a customer who works with us directly to be funding this sort of thing. . . .”

57. The brokers were fully aware that these bonus or contingency commissions would impact all consumers of insurance and increase the cost of insurance. As one Aon executive put it: “No client could be made to believe that this cost is not additive to the gross premium – hence we are indeed adding to the clients [sic] cost of risk.”

58. The brokers’ suggested approach was cold and calculated, just have the insurance companies increase the rates charged to customers and not to worry because the brokers would find a way to sell the product. As one Aetna manager related the comments from a meeting with brokers: “Their comments: Load the rates for additional comp and you’ll start to get business. If the comp is right they will sell the rates.”

59. Aetna understood the consequences. “[A broker] told us to load our rates 5-10% (give him ½) and we’d get all his business. . . . Me thinks we need to start getting *more creative* . . .” (Emphasis in original.)

60. Ultimately the insurers did get ‘creative’ and spread the cost of the hidden override payments over their entire book of clients. As one Aetna executive put it, “socialized [expenses] may be our only choice.”

F. Brokers Conceal Commissions From Municipal Clients.

61. Numerous towns and cities in Connecticut including Avon, Branford, Manchester, Greenwich, Fairfield, West Haven, Hartford, West Hartford, and Windham actively sought the expertise, advice and guidance of experienced brokers to obtain proper insurance coverage for important municipal offices, properties, employees, construction projects, and other activities at

the lowest cost to the taxpayers. These towns and cities sought, and paid for, professional, independent and unbiased advice from experienced brokers in order to ensure that the municipalities, and their employees, were fully protected without burdening taxpayers with excessive costs.

Manchester

62. Manchester is a town of about 55,000 residents and includes the signature retail establishment at Buckland Hills. The town is therefore responsible for providing necessary police, fire and sanitation services for both the municipal residents and the businesses located in several major local malls. In order to ensure objective and unprejudiced advice, Manchester issued a request for proposal (RFP) seeking qualified brokers and specifically insisted that the winning broker only accept a commission from the town.

63. Manchester chose Aon Consulting as its primary broker for health insurance. Manchester paid Aon an annual retainer of \$14,350. The Aon account executive for Manchester, regularly attended town committee meetings, interacted with officials, and provided advice, direction and oversight of the preparation of necessary reports. All insurance renewals were directed through him.

64. Manchester officials put great faith in Aon. When the town committee arranged to have an independent consultant review the town's health program finances, a town official commented "that he felt the Board was wasting the fee for the independent consultant since we already have AON [sic] filling that capacity."

65. What the Town was unaware of, however, was that in addition to serving as a paid consultant to Manchester, Aon was also receiving commissions from Anthem.

66. According to the Anthem's Commission Payment Arrangement for AON [sic] Consulting, "[b]eginning with February 1999 commission's payable in March 1999, [Anthem] will pay AON [sic] Consulting a flat monthly commission amount of \$45,000."

67. However, this \$45,000 per year was, evidently, not the only compensation Aon was receiving. A June, 1999, letter from Anthem states: "[Anthem] will pay commission for municipal groups currently under a consulting or fee for service arrangement with Aon at 2.25% assuming a qualifying commission event has occurred while Aon has been hired as a consultant. . . . This special commission arrangement will apply only to municipal groups. . . . The municipal groups currently under a consulting or fee for service arrangement with AON include: Bloomfield, . . . Bristol, . . . Groton, . . . City of Hartford, **Manchester**, . . . Milford, . . . Wilton," (Emphasis added.)

68. As this secret "special commission agreement" indicates, Anthem provides medical insurance to a number of Connecticut municipalities who were already known by Aon and Anthem as being "*currently under a consulting or fee for service arrangement.*" (emphasis added.) Thus, the parties were aware at the time they signed the agreement that Aon was in a fiduciary relationship with the designated towns and cities.

69. This undisclosed special contingent arrangement was very profitable to Aon. As noted in a memo from Aon to Anthem on August 30, 2002, regarding amendments to the special

bonus agreement, an Aon official stated that Anthem “[had] been very generous in the way [Anthem] [has] administered the agreement and we appreciate it.” Exactly how generous? As of that date, the annual extra bonus amounted to \$150,000. The memo itself indicated that, as of that date, as much as \$900,000 had been paid cumulatively to Aon.

70. Adjustments continued to be made in the override bonus program, without, of course, disclosing this to Manchester or the other towns served by Aon. Throughout, money continued to pile in. As described in a May 2003 internal Anthem memo, the then-current Aon program included a base commission of \$1,183,000 and a bonus of \$476,000 for an annual total of well over one and a half million dollars.

71. This arrangement continued until 2004 when Anthem suggested a new Aon program made up of “the standard CT Anthem 2004 Producer Compensation program and an additional component we are calling the Marketing Retention Performance Bonus.”

72. Whatever Aon and Anthem chose to call their secret arrangement, when an official from the Town of Manchester asked Aon if it was receiving compensation from sources other than the Town, Aon answered “No.”

73. The steering evidently worked for, interestingly, Manchester, and every other Connecticut municipality that retained Aon Consulting for its health coverage, ended up with insurance from Anthem Blue Cross Blue Shield.

74. On March 25, 2004, after reports began to surface in the national media and attention began to be focused on the practice of paying contingent commissions, Anthem faxed a

two page document to Manchester, and asked the Finance Director to sign it. This document said: “Anthem hereby informs Employer that Anthem may have reimbursement contracts with certain Providers or Vendors for payment of services . . . under which Anthem may be required to pay such Providers or Vendors additional money for . . . incentives, or other forms of performance compensation”

75. While this belated fax disclosed the existence of Aon’s generic receipt of payments from insurers, it did not inform Manchester that Anthem actually was paying Aon a secret commission of more than \$1,000,000 per year for its book of business in Connecticut. To this day, neither Aon nor Anthem have disclosed this fact to Manchester.

City of Hartford

76. The City of Hartford is the capitol of Connecticut and the second largest city in the state with approximately 120,000 residents. The City of Hartford has a critical need to obtain necessary insurance coverage for a wide variety of vital governmental functions including police, fire and sanitation services, coverage for city property, and other services. In order to find the best coverage for the best price, Hartford also turned to Aon. The city paid Aon up to \$80,000 a year from about 1999 to the end of 2003.

77. Acting on Aon’s advice, and just like Manchester, Hartford obtained its health insurance coverage from Anthem.

78. As noted above, Anthem and Aon had a written agreement by which Aon received additional special municipal bonus compensation for placing the health insurance.

79. At no point did Aon inform Hartford that it was also being compensated through a special bonus contingency commission arrangement from Anthem for placing health insurance with its clients until November, 2004, after law enforcement authorities had publicly initiated actions against national brokerage firms.

Yale University

80. Yale University is one of the world's premier educational institutions and is also a significant employer and economic presence in New Haven, Connecticut. Yale employs almost 11,000 people and is responsible for the education, housing and the wellbeing of an almost equal number of students. Consequently, it is a major purchaser of insurance products including health, life, dental and disability insurance.

81. In order to obtain the best possible insurance coverage, Yale contracted with Aon for its health, disability and other employee benefits insurance.

82. Aon proudly announced to Yale that its engagement letter was "a reaffirmation of our work together" and that its "purpose is to outline our mutual objectives and our responsibilities. We provide stewardship services to your Health and Welfare Plans"

83. Yale reasonably requested information from Aon as to the cost of these "stewardship services," whether Aon was receiving commissions from other sources and, if so, to have those sums deducted from the commission Yale paid. Aon, in its engagement letter, noted "Aon's compensation is based on an annual retainer of \$18,650. This retainer is based on

a routine level of activity. In the event that our time and expense exceeds this level by more than 10% . . . a midyear supplemental adjustment will be made.”

84. What Aon did not tell Yale was that it also was receiving secret overrides or other incentive payments for placing insurance with Yale. Specifically, in 1999 Aon and Anthem had an executed “Commission Payment Arrangement” under which Anthem agreed to pay Aon “a flat monthly commission amount of \$45,000.”

85. In addition, the local Aon representative, while serving as a paid consultant to Yale (as well as Manchester and other municipalities), negotiated a separate special commission arrangement for Aon from Anthem. As the above-referenced letter from Anthem to Aon stated: “[Anthem] will pay commission for municipal groups currently under a consulting or fee for service arrangement with Aon at 2.25% assuming a qualifying commission event has occurred while Aon has been hired as a consultant. . . . This special commission arrangement will apply only to municipal groups. . . . The municipal groups currently under a consulting or fee for service arrangement with AON include: . . . **Yale.**” (emphasis added)

86. By 2003, Anthem had a customized bonus program for Aon that, according to Anthem, paid Aon \$1,183,000 in 2003 which, as Anthem pointed out was materially better than the \$875,000 that Aon would have been paid under the standard bonus program.

87. In fact, the Connecticut office of Aon was so valued by Anthem that it developed a new, special program in 2004. The “Aon program will consist of the standard CT Anthem

2004 Producer Compensation program and an additional component we are calling the Marketing Retention Performance Bonus.”

88. In essence, these special service agreements were provided to justify payments for “services” what were, in effect, kickbacks. This becomes clear when one compares the terms of Aon’s agreement with Anthem and its agreement with Yale. Specifically, the insurer’s agreement with Aon requires the broker to “Provide consultative services to accounts,” while its agreement with Yale requires Aon for essentially the same services: “Review, suggest and inform Yale University about plan design alternatives.” Further, Anthem paid Aon to “Design, prepare and distribute special enrollment and employee communications,” while Yale paid Aon to “Review contracts and booklets” and “Review . . . documents” Next, Anthem required Aon to “Handle and assist in resolving group account holders’ service questions, correspondence and complaints,” while Yale paid Aon to “Resolve routine claim problems” and deal with “problematic claim adjudication.” In total, therefore, Aon was being paid a fee from Yale and a non-disclosed commission (or commissions) from Anthem to do the same work. Since, upon information and belief, the fees Anthem paid to Aon were built into Yale’s premiums, the university was effectively being charged twice for the same service.

89. Beyond this, what is unusually problematic and disconcerting about the Anthem contract with Aon is that it requires Aon to “provide unbiased advice to account holders” and, in the same paragraph, “[e]nsure . . . insurance is purchased through Anthem Insurance Companies Inc.”

90. Not only did Aon and Anthem fail to disclose to Yale this “special commission arrangement” that paid Aon twice for the same work and obligated Aon to restrict Yale’s “choice” of certain insurance products to Anthem alone, the insurance contracts signed between Anthem and Yale also explicitly acknowledge that “the standard commission” may be payable to “the broker responsible,” but that “[n]o additional commission, fee or other compensation (“Non-Standard Commission”) shall be paid to [a] . . . broker . . . unless expressly provided for . . . or disclosed and agreed to by [Yale]”

91. Anthem never disclosed the special commission arrangement to Yale or sought to have Yale agree to such.

92. In addition to Anthem, Aetna also had at least one, and possibly two, contingency commission agreements with Aon dating from the late 1990s.

93. Aetna was aware that Aon was often paid a fee by its clients and was thus in a fiduciary relationship and yet would still pay Aon an override commission on its book of business. “For brokers being paid a fee directly by the customer (AON [sic] for example has this come up.) we will, with my approval, be able to count that on their book.”

94. In the specific case of Yale University, Aetna chose to pay Aon a bonus commission of \$49,980 for the year 2003 for placing life insurance with the university’s employee benefits plan.

95. At no point has Aetna or Aon informed Yale of this or any other back-door bonus payment to steer business.

96. Neither Aetna nor Aon ever provided Yale with an IRS Schedule A Form 5500 indicating the existence of these override bonuses even though Aon's engagement letter with Yale explicitly requires Aon to "Provide review assistance with the preparation of form 5500, DOL / IRS". In this regard, it is illuminating that a November 18, 2002 internal Aetna memo indicates that Aon had "a few concerns with the '5500 report[] which is based on allocation of payments across entire Aetna block, not direct to customer . . . since this is spread out over our entire book, the customer would not see on the 5500 form the total comp paid . . . This was important because they do have some customers that are 'net of commissions' or 'fee based' and would question other fees, if listed. In addition, bid situations like Schools, Universities' [sic] or municipalities require they disclose all commission and fees."

97. Interestingly, on August 24, 2004, after state law enforcement authorities had begun to question Aon's bonus arrangements, Aon sent a letter to Yale stating: "We are in the process of updating our files and note that we have not sent you a Disclosure Statement within the last three years." In fact, Aon had never sent Yale a disclosure statement. In any event, the "Disclosure Statement" they belatedly sent mentioned two other insurance companies that coincidentally had been publicly identified as being subjects of state investigations, but still never disclosed the multiple secret bonus arrangements that Aon had with Anthem and Aetna.

FIRST CAUSE OF ACTION
UNFAIR TRADE PRACTICES

98. The allegations contained in paragraphs 1-97 are hereby incorporated by reference as paragraphs 1-97 of the First Count.

99. The Defendant's actions, as alleged herein, have been undertaken in the conduct of trade or commerce as defined in Conn. Gen. Stat. § 42-110a(4).

100. The Defendant has made or caused to be made, directly or indirectly, explicitly or by implication, representations and omissions which are material, false and likely to mislead, including but not limited to the following:

- a. That Aon would receive only the agreed upon commissions;
- b. That Aon would act as a fiduciary solely in its clients' interests;
- c. That Aetna and Anthem were bona fide candidates that had been recommended on their own qualifications alone; and
- d. That the insureds would pay only for Anthem's and Aetna's services and not for any additional remuneration to Aon.

101. Contrary to the Defendant's representations:

- a. Aon received payments for its services in addition to the agreed upon commissions;
- b. Aon did not act as a fiduciary solely in its clients' interest;

c. Aetna and Anthem were not bona fide candidates that had been recommended on their own qualifications alone; and

d. The insureds might pay for Anthem's and Aetna's services and for additional remuneration to Aon.

102. Additionally, the Defendant has repeatedly failed to disclose to its clients that Aon was receiving remuneration from Anthem and Aetna as a result of their selection as the consumers' insurer, which the Defendant had a duty to disclose by virtue of Aon's fiduciary and contractual status with its clients and also by virtue of its statements concerning additional remuneration and which omissions are material, false and likely to mislead.

103. The Defendant's representations and omissions, as alleged herein, were material to consumers' decisions to purchase insurance products and were reasonably interpreted by consumers and were likely to mislead consumers.

104. The Defendant's acts and practices, as alleged herein, violate the public policy of the State of Connecticut, including but not limited to:

a. the public policy prohibiting violations of the trust, confidence, duties owed within a fiduciary relationship, as embodied in the common law; and

b. the public policy prohibiting misrepresentations of the terms of insurance, misrepresentations of financial condition, omissions, and/or false statements in the course of the sale of insurance products, as embodied in Conn. Gen. Stat. § 38a-815.

105. The Defendant's acts and practices, as alleged herein, are immoral, unethical, oppressive or unscrupulous and cause substantial and unavoidable injury to consumers that is not outweighed by any countervailing benefit.

106. The Defendant's acts or practices, as alleged herein, violate § 42-110b-18(e) of the Regulations of Connecticut State Agencies, because it misrepresented the nature, characteristics, benefits and qualities of the services provided by the Defendant.

107. The Defendant's acts or practices, as alleged herein, therefore constitute unfair or deceptive acts or practices in violation of Conn. Gen. Stat. § 42-110b(a).

SECOND CAUSE OF ACTION

UNFAIR TRADE PRACTICES

108. The allegations contained in paragraphs 1-107 are hereby incorporated by reference as paragraphs 1-107 of the Second Count.

109. The Defendant engaged in the acts or practices alleged herein when it knew or should have known that their conduct was unfair or deceptive, in violation of Conn. Gen. Stat. § 42-110b.

WHEREFORE, pursuant to Conn. Gen. Stat. § 42-110m the State of Connecticut requests the following relief:

A finding that the Defendant has engaged in trade or commerce;

A finding that the Defendant has engaged in unfair or deceptive acts or practices in the course of trade or commerce which constitute violations of the Connecticut Unfair Trade Practices Act;

An order requiring the Defendant to submit to an accounting, pursuant to General Statutes § 42-110m(a), to determine the amount improperly paid to Defendant as a result of Defendant's acts and practices;

An order, pursuant to General Statutes § 42-110m(a), directing Defendant to pay restitution;

An order, pursuant to General Statutes § 42-110o(b), directing Defendant to pay civil penalties of not more than \$5,000 for each willful violation of General Statutes § 42-110b(a);

An award of costs and reasonable attorneys' fees, pursuant to General Statutes § 42-110m(a);

An order preliminarily and permanently enjoining the Defendant to take whatever actions are necessary to abate the use of acts or practices that violate the Connecticut Unfair Trade Practices Act, including, but not limited to, the unlawful acts and practices pleaded in this Complaint;

An order requiring the Defendant to pay restitution to the State of Connecticut and to each and every person or entity of any sort that made payments for insurance that were excessive as a result of the acts or practices that violate the Connecticut Unfair Trade Practices Act, as alleged herein;

An order requiring the Defendant to pay the costs for the investigation and prosecution of this action, including reasonable attorneys' fees; and Such other relief as is just and equitable to effectuate the purposes of this action.

Dated at Hartford, Connecticut, this th day of March, 2005.

PLAINTIFF
STATE OF CONNECTICUT

RICHARD BLUMENTHAL
ATTORNEY GENERAL

BY:

Robert D. Snook, Juris #409631
Assistant Attorney General
55 Elm Street, P.O. Box 120
Hartford, CT 06141-0120
Tel: (860) 808-5020
Fax: (860) 808-5347
Email: robert.snook@po.state.ct.us
ITS ATTORNEY

RETURN DATE: APRIL: 5, 2005

-----X		STATE OF CONNECTICUT
RICHARD BLUMENTHAL, Attorney	:	SUPERIOR COURT
General of the State of Connecticut	:	
	:	JUDICIAL DISTRICT OF
Plaintiff,	:	HARTFORD
	:	
v.	:	
	:	
AON CORPORATION ,	:	
AND AON CONSULTING, INC.	:	
	:	MARCH 4, 2005
Defendants.	:	
-----X		

AMOUNT IN DEMAND

The amount, legal interest or property in demand is \$15,000.00 or more, exclusive of interest and costs.

**PLAINTIFF
STATE OF CONNECTICUT**

BY: _____
 Robert D. Snook, Juris #409631
 Assistant Attorney General
 55 Elm Street, P.O. Box 120
 Hartford, CT 06141-0120
 Tel: (860) 808-5020
 Fax: (860) 808-5347
 Email: robert.snook@po.state.ct.us