

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

_____ )	
<b>IN RE: INSURANCE BROKERAGE</b> )	<b>MDL No. 1663</b>
<b>ANTITRUST LITIGATION</b> )	
)	<b>Civil No. 04-5184 (FSH)</b>
<b>APPLIES TO ALL ACTIONS</b> )	
_____ )	<b>Hon. Faith S. Hochberg</b>

**STIPULATION AND ORDER OF CONFIDENTIALITY**

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned,  
as follows:

1. Pursuant to the Court's \_\_\_\_\_, 2006 Findings And Order Preliminarily Certifying a Class For Settlement Purposes And Preliminarily Approving Proposed Settlement (the "Preliminary Approval Order") incorporating the terms of this Stipulation and Order of Confidentiality (the "Stipulation"), Co-Lead Counsel<sup>1</sup> will provide the undersigned Settlement Class Members(s) and/or his or her counsel with access to all discovery disclosed or otherwise produced by the Zurich Defendants to Plaintiffs and Co-Lead Counsel in the Action.

2. All of the discovery provided to Plaintiffs and Co-Lead Counsel – including, without limitation, writings, drawings, graphs, charts, photographs, transcripts, microfilm, microfiche, drafts, non-identical copies of documents and data compilations (including, without limitation, electronic or computerized data complications) from which information can be obtained – and all other information provided under the terms of this Stipulation, without regard to whether the information is oral, written or electronic, and regardless of the source of the

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1. Unless otherwise specifically defined herein, the capitalized terms in this Stipulation and Order of Confidentiality have the same meaning as attributed to them in the Stipulation of Settlement.

document or information, shall be deemed “Confidential Information.” All Confidential Information to which the undersigned Settlement Class Member(s) and/or his or her counsel are given access is subject to this Stipulation, and such Confidential Information shall not be used by or disclosed to anyone except as provided herein.

3. Confidential Information shall be used solely for purposes of evaluating the fairness, reasonableness and adequacy of the proposed settlement with the Zurich Defendants in this Action and for no other purpose. In particular, and without limitation, Confidential Information shall not be used by the undersigned Settlement Class Member (*i*) in the litigation of this Action, or (*ii*) in any other litigation, arbitration, or other jurisdiction or administrative proceeding (including in the investigation or preparation of any such proceeding). If an undersigned Settlement Class Member or his, her or its counsel cites or otherwise explicitly refers to Confidential Information in any objection or other filing that is made in this Action (including without limitation, quoting or paraphrasing Confidential Information), the portion of the filing in which the Confidential Information is set out shall be filed under seal with the Court.

4. The undersigned Settlement Class Member(s) and/or his or her counsel, and any expert retained by the undersigned Settlement Class Member(s) or his or her counsel may inspect the Confidential Information in the office of Whatley, Drake & Kallas, LLC, 75 Rockefeller Plaza, 19th Floor, New York, New York[plaintiffs to confirm location], by prior appointment and during regular business hours. No Confidential Information shall be removed from the site at which the inspection takes place (the “Document Depository”). Duplication of documents or materials containing Confidential Information shall not be permitted. However, in the course of inspecting the Confidential Information, the undersigned Settlement Class Member(s) and/or his or her counsel shall be permitted to make handwritten notes (“Handwritten Notes”) reflecting his

or her review of Confidential Information. Any Handwritten Notes reflecting, incorporating or otherwise referring to the Confidential Information shall be treated as and be deemed to be Confidential Information as well. The undersigned Settlement Class Member(s) and/or his or her counsel shall be able to remove Handwritten Notes from the Document Depository; *provided, however,* that Handwritten Notes may be used by the undersigned Settlement Class Member(s) and/or his or her counsel for the sole purpose described in paragraph 3 above and for no other purpose.

5. Except as provided in paragraph 4 above, the undersigned Settlement Class Member(s) and/or his or her counsel shall not make any notes, memorandum or memorialization relating to the content of Confidential Information, including recording any electronic notes on computer, electronic copying, scanning, and/or dictation equipment, or by any other means. The undersigned Settlement Class Member(s) and/or his or her counsel shall not bring recording devices or computers of any sort, including, without limitation, handheld or laptop computers or voice recorders of any type into the Document Depository. The undersigned Settlement Class Member(s) and/or his or her counsel shall not bring any type of photographic, photocopying, camera phones or other electronic devices that allow for the electronic scanning, copying or duplication of documents, including, without limitation, dictaphones, portable photocopiers or cameras, into the Document Depository.

6. Access to Confidential Information shall be limited to:

- a. the undersigned Settlement Class Member(s);
- b. his or her undersigned counsel;
- c. employees of undersigned counsel assigned to and necessary to assist such counsel in evaluating the proposed settlement; and

d. experts, to the extent necessary to assist the undersigned Settlement Class Member(s) and/or his or her counsel in evaluating the fairness, reasonableness and adequacy of the proposed settlement.

7. Any person given access to Confidential Information shall be advised, before being granted access, of the terms of this Stipulation and shall thereby become subject to such terms, including, without limitation, the requirement that such Confidential Information may not be disclosed to any person other than those described in paragraph 6 above. In addition, access to Confidential Information shall not be provided to any person described in paragraph 6 until and unless such person has executed the undertaking in the form attached to Exhibit A. The executed undertaking shall be promptly provided to the Zurich Defendants' Counsel at the address identified in Paragraph 14.

8. By providing access to Confidential Information, no party to this Action shall be held to have waived any claim that such Confidential Information is privileged, confidential or protected from discovery as attorney work product. The undersigned Settlement Class Member(s) and/or his or her counsel agree that they, or any of them, shall not contend or otherwise take the position in this or in any other pending or future proceeding that any party has waived the attorney-client privilege and/or the protection of the attorney work product doctrine, or any other privilege or protective doctrine, with regard to Confidential Information.

9. The provisions of this Stipulation shall survive the termination of this Action as to the Zurich Defendants. At the earlier of (i) the Final Settlement Date or (ii) the termination of the Settlement Agreement in this Action, all Handwritten Notes shall be destroyed. A written certification of destruction of Handwritten Notes from any person who has been given access to

Confidential Information pursuant to paragraph 6 above shall be provided to the Zurich Defendants' Counsel.

10. The terms of this Stipulation shall be enforceable by any aggrieved party, including any Settling Party, and any breach of such terms shall give rise to any and all applicable legal and equitable remedies for enforcement of the Stipulation and/or relief, including damages, for its breach.

11. Pursuant to the Preliminary Approval Order incorporating this Stipulation, any breach of the terms of this Stipulation shall constitute a violation of the Court's Order and may result in an order of contempt of court or other sanctions, upon application to the Court by any Settling Party.

12. The undersigned Settlement Class Member(s) and/or his or her counsel agree that (i) no Confidential Information disclosed pursuant to this Stipulation may be used in the litigation of this Action or any other proceeding, unless such Confidential Information is obtained independently through discovery requests made by the undersigned Settlement Class Member(s) and/or his or her counsel to the Zurich Defendants, the Broker Defendants or the Insurer Defendants, or any of them or is otherwise publicly available; (ii) discovery requests seeking Confidential Information shall not be served on the Zurich Defendants' Counsel, on Plaintiffs or on Class Counsel; and (iii) the undersigned Settlement Class Member(s) and/or his or her counsel shall not make discovery requests of the Zurich Defendants, the Broker Defendants or the Insurer Defendants, or any of them, that make reference directly or indirectly to Confidential Information in any such request or in any proceeding. The undersigned Settlement Class Member(s) and/or his or her counsel agree further that his, her or its receipt of

access to Confidential Information shall not be construed or used as an admission or concession by the Zurich Defendants of relevance, responsiveness, discoverability or any other matter.

13. The undersigned Settlement Class Member(s) and/or his or her counsel agree to notify the Zurich Defendants' Counsel (as identified in paragraph 14 below) immediately if any person granted access to Confidential Information under this Stipulation is served with or otherwise receives a subpoena, summons, court order, request or application requiring disclosure of Confidential Information. In any such instance, the undersigned Settlement Class Member(s) and/or his or her counsel also agree (i) not to oppose the Zurich Defendants' efforts to prevent the disclosure of Confidential Information and (ii) not to surrender Confidential Information to any third party without the consent of the Zurich Defendants or except as ordered by a final order of a court having jurisdiction.

14. The notice required by paragraph 13 of this Stipulation must be provided by facsimile or overnight mail or other overnight delivery service to:

Ralph C. Ferrara, Esq.  
Ann M. Ashton, Esq.  
LeBoeuf, Lamb, Greene & MacRae LLP  
1875 Connecticut Avenue, N.W.  
Suite 1200  
Washington, D.C. 20009  
Telephone: (202) 986-8000  
Facsimile: (202) 986-8102

15. No waiver by any party hereto of any breach of any condition or provision of this Stipulation shall be deemed a waiver of a similar or dissimilar provision or condition.

16. The undersigned Settlement Class Member(s) and/or the undersigned counsel (individually and on behalf of the Settlement Class Member(s)), consent to the jurisdiction of the

United States District Court for the District of New Jersey for purposes of interpretation and enforcement of this Stipulation.

17. This Stipulation shall be governed by and construed in accordance with the law of the State of New Jersey, excluding its conflict of laws provisions.

18. This Stipulation may be executed in any number of counterparts.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

COUNSEL, INDIVIDUALLY AND ON BEHALF  
OF THE SETTLEMENT CLASS MEMBER(S):

\_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[Print Name]

\_\_\_\_\_  
[Print name of Settlement Class Member(s)]

\_\_\_\_\_  
[Address and Telephone Number]

THE SETTLEMENT CLASS MEMBER (signature  
not required if Counsel has signed):

\_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[Print Name]

\_\_\_\_\_  
[Address and Telephone Number]

**Exhibit A to Stipulation and Order of Confidentiality**

**UNDERTAKING**

The undersigned hereby certifies that he/she understands that Confidential Information is being provided to him/her pursuant to the terms and restrictions of a Stipulation and Order of Confidentiality (the "Stipulation"), the terms of which have been incorporated into a \_\_\_\_\_, 2006 Order (the "Order") entered by the United States District Court for the District of New Jersey (the "Court") in the class action captioned *In re Insurance Brokerage Antitrust Litigation*, MDL No. 1663, Civil No. 04-5184 (FSH) (the "Action"). The undersigned also certifies that he/she has been provided with a copy of the Stipulation, has read and understands the terms of it, and agrees to be bound by all terms of it.

The undersigned acknowledges that breach of the Stipulation shall be actionable by any party to the Action, and that such breach shall subject the undersigned to any and all applicable legal and equitable remedies for enforcement of the Stipulation and/or relief, including damages, for its breach. The undersigned also acknowledges that breach of the Stipulation will violate the Court's Order and may subject the undersigned to an order of contempt of court or other sanctions, upon application to the Court by any Settling Party. The undersigned hereby subjects himself/herself to the jurisdiction of the Court for purposes of enforcement of the Stipulation and/or the Order.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_, 2006