SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

SCHEDULE 14D-1
(AMENDMENT NO. 13)

TENDER OFFER STATEMENT PURSUANT TO SECTION 14(d)(1)
OF THE SECURITIES EXCHANGE ACT OF 1934

AMERICAN BANKERS INSURANCE GROUP, INC.

(NAME OF SUBJECT COMPANY)

SEASON ACQUISITION CORP.
CENDANT CORPORATION

(Bidders)

COMMON STOCK, PAR VALUE $1.00 PER SHARE
(INCLUDING THE ASSOCIATED PREFERRED STOCK PURCHASE RIGHTS)

(Title of Class of Securities)

024456 10 5

(CUSIP Number of Class of Securities)

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This Amendment No. 13 amends the Tender Offer Statement on Schedule 14D-1 initially filed on January 27, 1998 (as amended, the "Schedule 14D-1") by Cendant Corporation, a Delaware corporation ("Parent"), and its wholly owned subsidiary, Season Acquisition Corp., a New Jersey corporation ("Purchaser"), relating to Purchaser's tender offer for 23,501,260 outstanding shares of common stock, par value $1.00 per share, of American Bankers Insurance Group, Inc., a Florida corporation (the "Company"). Unless otherwise defined herein, all capitalized terms used herein shall have the respective meanings given such terms in the Schedule 14D-1.

ITEM 10. ADDITIONAL INFORMATION.

The information set forth in subsection (c) of the Schedule 14D-1 is hereby amended and supplemented by the following information:

The required waiting period under the HSR Act with respect to the Offer expired on February 11, 1998. Acccordingly, Parent is free to consummate the Proposed Merger at any time without any further requirements under the HSR Act.

Pursuant to the Competition Act of Canada, Parent submitted to the Director of Investigation and Research (the "Director") a notification in respect of the Offer on February 4, 1998. The Director has confirmed that the statutory waiting period expired on February 11, 1998. In addition, the Director has notified Parent of his view that there are not sufficient grounds to initiate proceedings with respect to the Offer and the Proposed Merger. Accordingly, Parent is permitted to consummate the Offer and the Proposed Merger at any time without any further requirements under the Competition Act of Canada.

The information set forth in subsection (e) of the Schedule 14D-1 is hereby amended and supplemented by the following information:

On February 17, 1998, AIG and AIGF filed an amended complaint in the action captioned, American International Group, Inc. and AIGF, Inc. v. Cendant Corp. and Season Acquisition Corp., C.A. No. 98-0247 (the "Amended AIG Complaint") against Parent and Purchaser. The Amended Complaint continues to allege that Parent and Purchaser purportedly made false and misleading statements or omissions in Parent and Purchaser's: (i) pre-tender offer conference call with analysts; (ii) Schedule 14D-1; and (iii) proxy statement being used by Parent to solicit votes against the Proposed AIG Merger. The Amended AIG Complaint essentially repeats the allegations in the original AIG Complaint by alleging that Parent purportedly made false and misleading statements relating to the following general categories: (i) the equal regulatory footing of the two competing acquisition proposals; (ii) Parent's expected cost savings that could be realized if Parent were to acquire the Company; (iii) the Offer not being conditioned upon financing; and (iv) Parent's alleged failure to disclose a possible business downturn. The Amended AIG Compliant adds allegations that Parent purportedly failed to disclose a material fact by not disclosing that it allegedly will violate state insurance laws by holding proxies of Common Shares exceeding ten percent of the outstanding Common Shares. The Amended AIG Complaint also continues to allege violations of Sections 14(a) and 14(e) of the Exchange Act in addition to alleging that Parent and Purchaser purportedly violated Section 14(a) of the Exchange Act based upon a violation of Section 5 of the Securities Act.

AIG and AIGF reiterated their request that the Court to enter judgment: (i) declaring that Parent and Purchaser have violated Sections 14(a) and 14(e) of the Exchange Act; (ii) requiring Parent and Purchaser to make corrective disclosures; (iii) enjoining Parent and Purchaser from further violating Sections 14(a) and 14(e) of the Exchange Act; (iv) declaring that Parent and Purchaser have violated Section 14(a) of the Exchange Act by violating Section 5 of the Securities Act; and (v) enjoining Parent and Purchaser from making any statements regarding the Proposed AIG Merger or the Offer until a registration statement has been filed under the Securities Act and a prospectus has been delivered to the Company's shareholders. In the Amended AIG Complaint, AIG and AIGF also ask the court to enter judgment: (i) enjoining parent and Purchaser from holding or voting any proxies from the Company's shareholders to the extent such proxies exceed ten percent of the Common Shares, without first obtaining approval from the insurance departments of Arizona, Georgia, New York, South Carolina, and Texas; (ii) requiring Parent and Purchaser to return any proxies they have received or receive from the Company's shareholders prior to making any corrective disclosures required by the Court; (iii) requiring Parent and Purchaser to make corrective disclosure about their ability to hold or vote proxies without obtaining regulatory approval; and (iv) enjoining Parent and Purchaser from soliciting any proxies until a registration statement has been filed under the Securities Act and a prospectus has been delivered to the Company's shareholders.

On February 17, 1998, AIG and AIGF also filed: (i) a motion for preliminary injunction, (ii) a memorandum of law in support of their motion for preliminary injunction, (iii) an emergency motion requesting a hearing on their motion for a preliminary injunction, (iv) a motion for expedited discovery with a supporting memorandum of law, (v) a request for documents from Parent and Purchaser, and (vi) a notice to take the deposition of one or more representatives of the Parent or Purchaser. In their motion for preliminary injunction, AIG and AIGF ask the Court for an order: (i) enjoining Parent and Purchaser from holding or voting any proxies from the Company's shareholders to the extent such proxies exceed ten percent of the Common Shares, without first obtaining approval from the insurance departments of Arizona, Georgia, New York, South Carolina, and Texas; (ii) requiring Parent and Purchaser to return any

proxies they have received or receive from the Company's shareholders prior to making any corrective disclosures required by the Court; (iii) requiring Parent and Purchaser to make corrective disclosures about their ability to hold or vote proxies without obtaining regulatory approval; and (iv) enjoining Parent and Purchaser from making any statements regarding the Proposed AIG Merger or the Offer, or from soliciting any proxies, until a registration statement has been filed under the Securities Act and a prospectus has been delivered to the Company's shareholders.

On February 18, 1998, Parent and Purchaser filed a motion to dismiss the Amended AIG Complaint.

Parent and Purchaser believe that the Amended AIG Complaint and the related motions are meritless, and they will continue to vigorously oppose AIG and AIGF's claims.

On February 17, 1998, in connection with Parent and Purchaser's application for approval of the acquisition of a controlling interest in Bankers American Life Assurance Company (the "New York Domestic Insurer"), a subsidiary of the Company (the "Parent New York Form A Proceedings") and in connection with the application of AIG and AIGF for approval of their proposed acquisition of a controlling interest in the New York Domestic Insurer (the "AIG New York Form A Proceedings"), Parent and Purchaser filed with the New York Department of Insurance (the "New York Department") a petition and memorandum in support of Parent's and Purchaser's petition (the "New York Petition") seeking: (1) to allow Parent and Purchaser to intervene in the AIG New York Form A Proceedings; (2) to consolidate the Parent New York Form A Proceedings with the AIG New York Form A Proceedings, and (3) to schedule a hearing after the results of a vote of the Company's shareholders are known. In these filings, Parent and Purchaser asserted that they should be permitted to intervene in the AIG New York Form A Proceedings because their substantial interests as a shareholder (in the case of Parent) and competing acquiror of the Company will be affected by the AIG New York Form A Proceedings. Parent and Purchaser also asserted that the AIG New York Form A Proceedings raise substantial issues regarding whether AIG's proposed acquisition of a controlling interest in the New York Domestic Insurers should be approved by the New York Department, that these issues should receive a thorough and complete review by the New York Department, that Parent and Purchaser have a right to be heard on these issues, and that the New York Department should therefore consolidate the Parent New York Form A Proceedings with the AIG New York Form A Proceedings and hear and decide the two proceedings simultaneously. Parent and Purchaser also asserted that the hearing should occur after the Company's shareholders vote on the Proposed AIG Merger.

ITEM 11. MATERIAL TO BE FILED AS EXHIBITS.

Item 11 is hereby amended as follows:

(g)(16) Amended Complaint filed on February 17, 1998 against Parent and Purchaser by AIG and AIGF in the United States District Court for the Southern District of Florida, Miami Division.

(g)(17) Petition of Parent and Purchaser to Intervene and Consolidate and for a Hearing, filed on February 17, 1998 with the State of New York Department of Insurance.

(g)(18) Motion to Dismiss the Amended AIG Complaint filed on February 18, 1998 by Parent and Purchaser in the United States District Court for Southern District of Florida, Miami Division.

(g)(19) Parent and Purchaser's Memorandum of Law in support of their Motion to Dimiss the Amended AIG Complaint.

(g)(20) Purchaser's Response to the Company's Request for a Hearing by the Florida Insurance Department, filed on February 18, 1998.

SIGNATURE

After due inquiry and to the best of its knowledge and belief, the undersigned certifies that the information set forth in this statement is true, complete and correct.

Dated: February 19, 1998

CENDANT CORPORATION

By: /s/ James E. Buckman

Name: James E. Buckman
Title: Senior Executive Vice President and General Counsel

SEASON ACQUISITION CORP.

By: /s/ James E. Buckman

Name: James E. Buckman
Title: Executive Vice President

EXHIBIT INDEX

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

AMERICAN INTERNATIONAL GROUP, INC.; AND AIGF, INC.,

Plaintiffs,

v.

CENDANT CORPORATION; and SEASON ACQUISITION CORP.,

Defendants.

- ----------/

Case No. 98-0247-CIV-GRAHAM
Magistrate Judge Dube

AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs American International Group, Inc. ("AIG") and AIGF, Inc. ("AIGF") for their amended complaint against defendants Cendant Corporation ("Cendant") and Season Acquisition Corp. ("Season"), by and through their undersigned attorneys, allege as follows:

NATURE OF THE ACTION

1. On December 21, 1997, AIG, AIGF and American Bankers Insurance Group, Inc. ("American Bankers"), a Florida corporation, entered into a merger agreement (as amended, the "AIG Merger Agreement") which provides that American Bankers will be merged with AIGF, a wholly-owned subsidiary of AIG (the "AIG Merger"). The AIG Merger Agreement provides that each share of American Bankers common stock will be exchanged in the AIG Merger for a

portion of a share of AIG common stock (or, subject to specified limitations and at the election of American Bankers common shareholders, cash) equal to $47.00, with a total value of approximately $2.2 billion. The AIG Merger is scheduled to be put to a vote of American Bankers' common shareholders on March 6, 1998 and preferred shareholders on March 4, 1998.

2. On January 27, 1998, Cendant and Season, a wholly-owned subsidiary of Cendant, announced an intention to commence a hostile tender offer (the "Cendant Offer") to purchase up to 51% of the outstanding shares of American Bankers for $58.00 per share. The purpose of the Cendant Offer and the proposed second step merger between Cendant and American Bankers (the "Cendant Merger") is to enable Cendant to acquire control of, and ultimately the entire equity interest in, American Bankers.

3. Since January 27, 1998, Cendant and Season have embarked upon a campaign of misinformation by disseminating numerous false and misleading statements to American Bankers' shareholders in violation of the federal securities laws (in particular Sections 14(a) and 14(e) of the Securities Exchange Act of 1934, as amended ("Exchange Act")). On February 12, 1998, Cendant filed a definitive proxy statement containing false and misleading statements with the Securities and Exchange Commission ("SEC") and began to disseminate it to American Bankers' shareholders. Cendant and Season's conduct is designed to mislead American Bankers' shareholders and to induce them to vote against the AIG Merger by deceiving shareholders into believing that the Cendant Offer represents a real and unconditional alternative

to the AIG Merger worth $58.00 per share when, in fact, the Cendant Offer is highly conditional and risky and, if consummated, would leave American Bankers' shareholders holding extremely volatile Cendant common stock. Cendant also has falsely represented to American Bankers' shareholders that a merger with American Bankers would achieve $140 million in pre-tax synergies, and hence would not dilute Cendant's per share earnings. As Cendant well knows, it cannot achieve such inflated synergies. Cendant also has represented that it will obtain the necessary regulatory approvals from state insurance departments in substantially the same time frame as insurance regulatory approvals for the AIG Merger. Cendant, which was formed by a merger a mere two months ago and has no experience running an insurance company, knows that these statements are false because state insurance departments will have to conduct a thorough investigation into Cendant's financial condition, background and competence to run an insurance company before allowing Cendant to acquire American Bankers.

4. Cendant and Season's public filings also fail to disclose several important and material facts. Critically, Cendant has failed to disclose that its solicitation of proxies from American Bankers' shareholders will violate state insurance laws if Cendant holds proxies for American Bankers' common shares, that together with the 0.79% of American Bankers' common shares that Cendant already owns, exceeds ten percent of American Bankers' outstanding common shares. On February 12, 1998, Cendant began seeking proxies from American Bankers' preferred and common shareholders to vote against the AIG Merger at meetings scheduled on

March 4 and March 6, 1998. However, Cendant has failed to disclose to American Bankers' shareholders and the marketplace that, under the laws of five of the six states in which American Bankers' U.S. insurance subsidiaries are domiciled, Cendant cannot hold (let alone vote) proxies representing 10% or more of American Bankers' voting securities because holding such proxies is presumed to be acquisition of "control" of American Bankers' insurance subsidiaries and requires regulatory approval prior to acquisition of the proxies. For example, in Georgia -- a state where Cendant must secure regulatory approval for its proposed acquisition of control of American Bankers -- Section 33-13-1(3) of the Georgia Insurance Code presumes that "control" exists if a person holds proxies representing 10% or more of the voting securities of any other person. Arizona, South Carolina and Texas have similar statutory prohibitions on holding proxies for 10% or more of an insurance company's shares and the New York Department of Insurance has interpreted the New York Insurance Code in the same way. Cendant has not obtained regulatory approval to acquire control of American Bankers in any state (and in fact is far from obtaining it).

5. By soliciting proxies from all shareholders of American Bankers, when at most it can hold proxies for 9.2% more of American Bankers common shares without regulatory approval, and by failing to disclose that fact, Cendant has sought to convince American Bankers' shareholders to forfeit their votes. Neither Cendant's Schedule 14D-1, its proxy solicitation materials nor Cendant's other communications to American Bankers' shareholders disclose these

vitally important and material facts. Nor does Cendant disclose that if it violates such state insurance statutes, it may, in some cases, be subject to enforcement proceedings and criminal sanctions. Indeed, a wilful violation of the state insurance statutes during the statutory review period is itself sufficient grounds to deny regulatory approval for Cendant's proposed acquisition of American Bankers.

6. The power that Cendant would have pursuant to vote its proxies to cause American Bankers to reject the AIG merger and bring American Bankers to its knees in the face of Cendant's hostile tender offer and to be sold, inevitably, to Cendant is precisely the power to direct the policies of an insurer that the state insurance holding company statutes seek to regulate.

7. Furthermore, the Texas Cendant Form A (the form that an entity must file with the state insurance departments in order to obtain regulatory approval and the only Form A filed by Cendant with state insurance regulators to which AIG currently has access) does not even seek prior approval for holding or voting proxies as to 10% or more of the shares of either American Bankers' common or preferred stock. AIG believes that Cendant's other Form A filings similarly fail to disclose its solicitation of proxies for more than 10% of American Bankers shares. Thus, Cendant apparently has not even told the state regulators that it is seeking to acquire and vote proxies in violation of state law, which will make regulatory approval for Cendant's proposed acquisition of American Bankers even less likely.

8. AIG will be irreparably harmed by Cendant's conduct because (i) AIG's rights under a voting agreement covering 8.6% of American Bankers' shares will be diluted or made valueless by Cendant's deception of American Bankers' shareholders; (ii) its rights under an option agreement it has exercised (subject to regulatory approval) covering 19.9% of American Bankers' shares will be irreparably injured if the AIG Merger is voted down because of Cendant's deceptions and American Bankers is left at the mercy of Cendant; and (iii) its rights under its merger agreement with American Bankers will be irreparably injured. Absent injunctive relief requiring Cendant to stop soliciting proxies until it obtains regulatory approval and corrective disclosure is made, AIG and American Bankers' shareholders will be irreparably injured. An injunction requiring prompt corrective disclosure and an order halting Cendant from soliciting further proxies and promptly returning any proxies it has received, is the only reasonable and proper means of ensuring that American Bankers' shareholders are not deceived into giving their proxies to Cendant and that the objective of the securities laws -- to promote fair corporate suffrage -- is achieved. Significantly, American Bankers shareholders may still vote for or against the AIG Merger -- and Cendant can attempt to influence their votes -- either by voting in person at the shareholder meetings or by checking the "yes" or "no" box on the proxy card circulated by American Bankers.

9. Cendant's false and misleading statements are not its only violations of federal law. For more than two weeks, Cendant and its advisors have been touting the Cendant Merger

- -- and the Cendant stock that will be issued in connection with it -- while intentionally failing to file a registration statement with respect to the Cendant stock. For example, Henry R. Silverman, Cendant's President and Chief Executive Officer, stating during an analysts' conference call on January 27, 1998 that the Cendant offer was "clearly superior" to the AIG Merger and that "[i]n total we've already identified about $140 million of pre-tax synergies which is about 10 cents per Cendant share." Such statements can only be relevant to someone who holds, or will hold, common stock of Cendant. These statements infected and permeated the marketplace because they were picked up by national and international newspapers and analysts. Section 5 of the Securities Act of 1933, as amended (the "1933 Act"), prohibits any person from selling or offering to sell securities without filing a registration statement. 15 U.S.C. ss. 77e(a), (c). Such blatant violations of the 1933 Act, which also subverts the proxy solicitation process, should not go unremedied. Unless this court promptly issues an injunction halting Cendant and its advisors from continuing to violate Section 5 of the 1933 Act, plaintiffs and other American Bankers shareholders will continue to receive requests for shareholder votes and offers to purchase Cendant common stock -- securities as to which no registration statement has been filed under the federal securities laws -- without the critical financial and other information required by the 1933 Act in connection with a public offer of stock and by the Exchange Act for the solicitation of proxies. Despite being put on notice that its conduct violates the 1933 Act, Cendant has

brazenly continued to tout its stock without filing the registration statement required by the federal securities laws.

10. Because Cendant continues -- on a daily basis -- to mislead American Bankers' shareholders, AIG must seek relief from this Court pursuant to Sections 14(a) and 14(e) of the Exchange Act and the rules promulgated thereunder.

JURISDICTION AND VENUE

11. The claims asserted herein arise under Section 14(a) and 14(e) of the Exchange Act, 15 U.S.C. ss.ss. 78n(a), and 78n(e), and the rules and regulations promulgated thereunder. This court has jurisdiction over the action pursuant to Section 27 of the Exchange Act, 15 U.S.C. ss. 78aa; 28 U.S.C. ss. 1331 (federal question); and 28 U.S.C. ss. 1367 (supplemental jurisdiction).

12. Venue is proper in this judicial district pursuant to 28 U.S.C. ss. 1391 and 15 U.S.C. ss. 78aa. The claims asserted herein arose in this District, and the acts and transactions complained of have occurred, are occurring, and unless enjoined, will continue to occur in this District.

THE PARTIES

13. Plaintiff AIG is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in New York. AIG is a party to a voting agreement covering 8,265,626 American Bankers common stock, and has exercised an option to purchase 19.9% of American Bankers common stock, subject to obtaining regulatory approvals. AIG is a

holding company with a market capitalization as of December 31, 1997, of approximately $76 billion, which through its subsidiaries is primarily engaged in a broad range of insurance and insurance-related activities and financial services in the United States and abroad. AIG has received Triple-A long term debt ratings from the principal ratings agencies, Moody's and Standard & Poor's.

14. Plaintiff AIGF is a wholly-owned subsidiary of AIG and is a Florida corporation newly-formed for the purpose of consummating the AIG Merger.

15. Defendant Cendant is a corporation organized and existing under the laws of the State of Delaware with its principal place of business located in Parsippany, New Jersey. Cendant has not registered to do business in the state of Florida. Cendant was formed on December 17, 1997 through the merger of HFS, Inc. ("HFS"), a company involved in the lodging, rental car and other consumer marketing businesses, and CUC International, Inc. ("CUC"), a company engaged in direct marketing "membership clubs" to consumers. Cendant reports that it "administers insurance package programs which are generally combined with discount shopping and travel for credit union members." Cendant Texas Form A at 5 (Filed Jan. 27, 1998). What this actually means is that Cendant markets accidental death and dismemberment and accident insurance policies for insurance companies such as Hartford, Cigna and US Life. Cendant has no experience in running an insurance company. Indeed, Cendant

acknowledges that it primarily engages in three business segments: membership services, travel and real estate -- none of which is related to insurance.

16. On January 27, 1998, Cendant publicly announced that defendant Season, a wholly owned subsidiary of Cendant, had commenced a tender offer to purchase 51% of the outstanding common shares of American Bankers, with the remaining 49% of the shares to be acquired through a second-step merger. Season is a New Jersey corporation with its principal place of business also in Parsippany, New Jersey.

BACKGROUND FACTS

The AIG Merger.

17. Between August and December 1997 representatives of AIG and American Bankers exchanged financial and other information and discussed the possible expense savings, revenue enhancement and business opportunities in connection with a possible business combination. In particular, AIG and American Bankers discussed the benefits to American Bankers of AIG's Triple-A ratings and the enormous opportunities potentially available to American Bankers in combining with AIG's substantial and successful insurance operations outside of North America.

18. On December 19, 1997, the board of directors of AIG approved the AIG Merger Agreement pursuant to which each shareholder of American Bankers would receive $47.00 in AIG common stock in exchange for each share of American Bankers common stock. Under the

terms of the AIG Merger Agreement, American Bankers shareholders can elect to receive $47 in cash instead of AIG common stock, subject to the condition that the maximum aggregate amount of cash that AIG will pay to all holders of common stock will be equal to 49.9% of the total value of the consideration paid to all holders of American Bankers' common stock. If cash elections are made with respect to more than 49.9% of the outstanding shares of common stock, AIG will make cash payments on a pro rata basis.

19. On December 21, 1997, the board of directors of American Bankers unanimously approved the AIG Merger Agreement and resolved unanimously to recommend that the shareholders of American Bankers (including holders of American Bankers' preferred and common stock) vote for approval and adoption of the AIG Merger Agreement. AIG and shareholders owning 3,389,300 shares of American Bankers' common stock entered into a voting agreement providing, inter alia, that the shares would be voted in favor of the AIG Merger.

20. In a joint press release dated December 22, 1997, the respective Chairmen of AIG and American Bankers each disclosed the benefits that would be gained by a merger of the two corporations. Maurice R. Greenberg, Chairman of AIG, stated:

> "We are very pleased to have reached this agreement to acquire American Bankers, a fine company with product lines that complement, but do not overlap those of AIG. American Bankers management shares the AIG philosophy of doing business and they have an outstanding reputation for product and service quality, as well as a strong financial record. Culturally and from a business standpoint, there is an excellent fit between our two organizations . . . . As part of AIG, American Bankers will be able

> to take advantage of AIG's relationships and global network to build its business of credit related insurance products marketed through financial institutions and other entities. Particularly overseas, AIG will be able to open significant new opportunities for American Bankers. AIG's top credit ratings should also provide an important benefit to American Bankers . . . ."

AIG to Acquire American Bankers Insurance Group for Stock Valued at $2.2 billion, PR Newswire, Dec. 22, 1997.

21. In the same press release, the President and CEO of American Bankers, Gerald N. Gaston, also made clear the benefits of AIG Merger to American Bankers:

> "We are extremely pleased to have the opportunity for American Bankers to become a member of the AIG organization. This will create significant new opportunities for our clients, associates and employees. With AIG's excellent name recognition, financial strength and broad network, our clients will benefit from being associated with one of the world's leading providers of insurance and financial services. This is truly an outstanding result for both organizations."

Id.

22. Analysts commented favorably on the AIG Merger and the benefits that the transaction would afford to both AIG and American Bankers. Gloria Vogel, an analyst at Advest Inc. said of the merger, "[t]he cross-selling opportunities are terrific." AIG to Acquire American Bankers, Dallas Morning News, Dec. 23, 1997, at 4D. Ken Zuckerberg, a Moody's analyst, said:

> "[The Merger] allows American Bankers to leverage AIG's global network, and get access to their higher ratings. In an environment of soft property-casualty and limited US growth opportunities, consolidation makes sense."

John Authers, AIG to Acquire American Bankers Insurance, Fin. Times, Dec. 23, 1997 at 20. Cendant Surfaces With its Hostile Offer.

23. Without any prior warning or notice, on January 27, 1998, Cendant, through its President and Chief Executive Officer, Henry R. Silverman, and its Chairman, Walter A. Forbes, wrote a letter (the "January 27 Letter") to the American Bankers' board of directors and submitted a proposal to acquire American Bankers for $58 per common share payable in cash and Cendant stock. The January 27 Letter also announced that Cendant "will be commencing promptly a cash tender offer directly to American Bankers' shareholders for 51% of American Bankers' shares at a price of $58 per common share to be followed by a second step merger in which shares of Cendant common stock with a fixed value of $58 per share will be exchanged on a tax free basis for the balance of American Bankers' common stock." Following Cendant's announcement, AIG gave notice to American Bankers that it exercised its right to purchase 8,265,626 shares of American Bankers common stock, subject to regulatory approvals.

24. Simultaneously with their acquisition proposal, Cendant and Season commenced an action in the United States District Court for the Southern District of Florida in which they named as defendants American Bankers, its board of directors, AIG and AIGF alleging, among other things, that certain terms of the AIG Merger Agreement and the AIG Merger constituted a breach of fiduciary duty to Cendant -- allegedly a beneficial owner of 371,200 shares of American Bankers common stock. The Complaint failed to disclose that Cendant began

acquiring its shares on January 16, 1998, nearly one month after the conduct it alleged constituted a breach of fiduciary duty.

Cendant Commences its Campaign of False and Misleading Statements and Violations of the Federal Securities Laws.

25. On January 27, 1998 -- before Cendant had filed any proxy or tender offer materials or a registration statement in connection with the securities that Cendant intended to offer in connection with the Cendant Merger -- Cendant's President and CEO, Henry Silverman, made a speech to analysts announcing the Cendant Offer. Silverman told analysts:

> "[o]ur $58 offer price represents a 23% premium to that offer. We believe ABI shareholders will find our offer compelling, and clearly superior to AIG's."

26. Silverman also made it clear that Cendant intended to conduct a proxy contest to persuade American Bankers' shareholders to vote against the AIG Merger:

> "We will also conduct a proxy contest right through the date of their meeting, if there ever is a meeting, to consider the AIG transaction. So, I would expect that shareholders could anticipate receiving communications from us in those two areas."

27. During a January 27 analysts' conference call (the "January 27 Analysts Call"), Silverman made a number of statements that he knew to be materially false and misleading and failed to disclose material facts. These misleading disclosures were repeated in subsequent public filings and materials disseminated to American Bankers' shareholders.

Cendant Misrepresents its Ability to Obtain Regulatory Approvals.

28. During the January 27 Analysts Call, Silverman represented that Cendant's bid to acquire American Bankers was on an

> "equal footing with AIG on the basis of timing, financial conditions or any other basis. These approvals usually take months to complete; therefore, AIG is essentially no further along than we are. In fact, we have already been approved in the past to write insurance in major states, including New York and Colorado, and we see no reason to believe that our applications in these states or in any other state or country will not [be] approved on a timely basis."

29. Silverman's assertion that the timing of regulatory approvals for the AIG Merger and the Cendant Merger was comparable and that both transactions could close at the same time was knowingly false and misleading. In fact, the regulatory approval process for the AIG Merger commenced in December 1997 and is much further along than Cendant's efforts to obtain approval for its proposed acquisition of American Bankers, which was announced more than one month after the AIG Merger was announced. Furthermore, Silverman failed to disclose that AIG -- which is in the business of writing insurance -- is more likely to secure prompt insurance regulatory approval than Cendant, which admittedly has no history of running insurance companies.

30. Silverman's representation that Cendant will secure insurance regulatory approval on the same time schedule as the AIG Merger is also false and misleading because it ignores the fact that the state insurance regulatory approval process creates a significant obstacle and hurdle to the Cendant Merger. As Silverman well knows, the insurance regulatory approval process will

be a searching and thorough investigation into the background, experience and financial condition of Cendant (and the people who manage it) in order to determine whether the Cendant Merger is in the best interests of American Bankers' policyholders. For at least the following reasons, none of which have been fully disclosed to American Bankers' shareholders in any public filings or elsewhere, it is clear that Cendant will find it difficult, if not impossible, to secure prompt approval for the Cendant Merger from various state insurance departments:

a. Cendant, which was created just last December through the merger of CUC and HFS, is a company whose financial condition cannot be evaluated with any degree of confidence. Cendant has been so busy acquiring or agreeing to acquire companies that it has yet to produce pro forma financial statements showing what its financial condition would be after the American Bankers acquisition and its other pending acquisitions. State insurance departments will have to subject Cendant (and its predecessor corporations) to a lengthy and detailed financial review. As reported in the February 4, 1998 Miami Herald, Florida Insurance Commissioner Bill Nelson stated after meeting with Walter Forbes of Cendant:

> in no way was he giving Cendant the department's "Good Housekeeping Seal of Approval," he said. "What we want to see is that people who want to do business in Florida meet financial requirements and have the best interests of consumers at heart," Nelson said.

By contrast, AIG -- a company with sterling ratings and financial history -- will have no such issues in securing regulatory approval.

b. Cendant -- and its predecessor HFS -- has grown by acquiring a variety of businesses that generate cash flows but have few tangible assets. Upon acquiring these businesses, HFS has sold the tangible assets it acquired (hotels, rental cars, etc.) and allocated a substantial percentage of the purchase price to "goodwill" and other "intangible" assets. For example, just three weeks ago Cendant confirmed that it was purchasing Jackson Hewitt, a tax preparation service, for $68 per share. Cendant allocated only $14 million of the purchase price to tangible assets, while allocating $450 million to goodwill -- an intangible asset. By allocating such substantial amounts of its cost of purchasing companies to good will and other intangible assets, HFS and Cendant have greatly inflated current earnings at the expense of future earnings. Cendant amortizes intangibles for as many as 40 years, which is far longer than generally permitted for franchise values, or for real assets (which must be depreciated over their useful lives -- e.g., 2 or 5 years). Using a 40-year amortization, Cendant can recognize only one-quarter the annual amortization expense it would recognize if it used a ten-year amortization period. As of September 30, 1997, Cendant's total GAAP stockholders' equity was $4.6 billion and its GAAP balance sheet reflected $4.7 billion of goodwill and intangibles. Accordingly, Cendant had a tangible net worth of negative $0.1 billion.

Were Cendant to acquire American Bankers, Cendant's stockholders' equity would increase to more than $5.9 billion and its net tangible net worth would decrease to negative $1.1 billion. State insurance departments will take care to determine whether it would be in the interests of American Bankers' policyholders to be insured by a company whose parent corporation has net tangible net worth of negative $1.1 billion.

c. This growth-by-acquisition strategy and associated creation of huge amounts of intangible assets has clearly fueled HFS' market price, and has made acquisitions using HFS stock relatively cheap. Like a shark who has to keep swimming to avoid sinking, however, HFS's (and Cendant's) earnings can only keep growing as rapidly as they have if Cendant can continue to make newer and larger acquisitions. Once Cendant's cash flows, revenues and profits stop growing, its share price will drop from its lofty peak of 50 times inflated profits, acquisitions will become more expensive, earnings will decrease even more as amortization of goodwill and other intangibles drag down earnings no longer inflated by Cendant's creative acquisition and accounting strategy, with the inevitable toll on Cendant's inflated stock price. A September 9, 1996 report in Forbes summarized Silverman's (and HFS's) potentially disastrous acquisition strategy:

> "With Silverman's financial magic and business ingenuity in full gear, HFS' earnings are likely to grow rapidly for another year or two, but essentially he's playing a more sophisticated version of the old

> franchise game: The profits keep growing rapidly only so long as Silverman can find new and larger businesses to buy and convert to his swollen stock multiples. When the game slows, as it inevitably will, the swollen earnings gains will begin to shrink and around then the fancy multiples will go poof. By then Henry Silverman, already worth some $600 million on paper, will probably be even richer. Recent investors aren't likely to fare as well."

See Howard Rudnitsky, Henry the magician, Forbes, Sept. 9, 1996 at 99. (A copy of that article is annexed hereto as Exhibit A.) Silverman may already have started his exit from Cendant: on February 4, 1998 he sold approximately $60 million of Cendant stock, a fact Cendant has not yet disclosed to American Bankers' shareholders. Plainly, state insurance regulators will have to analyze Cendant's financial condition and accounting methodology carefully before approving an acquisition of American Bankers by Cendant. These accounting and financial issues simply do not exist in connection with the AIG Merger.

d. Silverman, Cendant's President and Chief Executive Officer, has had a checkered business history. State insurance regulators will likely conduct a detailed investigation before giving Cendant and Silverman approval to acquire American Bankers. From 1982 through 1990, Silverman was president and chief executive of Reliance Capital Corp. ("Reliance Capital"), the leveraged buyout unit of the financier and corporate raider Saul Steinberg's Reliance Group Holdings. In this position,

Silverman frequently used the highly leveraged, junk bond strategies of Michael Milken and his associates at Drexel Burnham Lambert, and participated in Milken's junk bond takeovers. On information and belief, among the investors investing with Reliance Capital was a partnership called Drexel Reliance Capital Group, which included Milken, Seema Boesky (Ivan Boesky's wife), Victor Posner, Carl Lindner, casino owner Steve Wynn and Thomas Spiegel of the failed Columbia Savings & Loan -- all associates of Milken and attendees (along with Silverman) at Milken's annual "Predators' Ball." Not surprisingly given this background, Silverman has been affiliated with a number of companies that have gone into bankruptcy shortly after his tenure ended. Silverman's business ethics have also been called into question by commentators. For example, one report described how he bought and sold the Days Inns motel chain three times in eight years:

> "In the process, Silverman, 52, has feathered his own nest and made more than $100 million for his investors. Days Inns bondholders, though, have gotten bagged for hundreds of millions of dollars. You can't make an omelette without breaking someone's eggs."

Allan Sloan, Once Again, It's Checkout Time; Silverman Selling Chain for Third Time, Newsday, Sept. 13, 1992, at 84; see also Howard Rudnitsky, Triple Dipper, Forbes, Nov. 25, 1995, at 171 ("Henry Silverman and his friends got rich while the bondholders of Days Inns lost their shirts.") (A copy of that article is annexed hereto as Exhibit B.)

e. In reviewing applications for a change of control, according to the Model Insurance Holding Company System Regulatory Act, the criteria the insurance departments must consider include whether the "competence, experience and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer and of the public to permit the merger or other acquisition of control." Regulators focus on the "competence, experience and integrity" of controlling persons because once they approve incompetent, inexperienced or dishonest controlling persons, they usually are left with only the power to salvage the insurers these people damage. The states in which Cendant will need to obtain regulatory approval for its proposed acquisition of American Bankers -- Florida, Arizona, Georgia, New York, South Carolina and Texas -- have the same or similar provisions regarding competence, experience and integrity. Henry Silverman, Cendant's President and Chief Executive Officer, will clearly be the subject of detailed scrutiny in light of his business history. For example, Silverman headed Convenience & Safety Corporation, which in the late 1970s sought the franchise for installing and selling advertising on bus stop shelters in New York City. After Convenience & Safety won the contract, the City of New York and a federal grand jury investigated the bidding. As reported in the New York Times, Jack E. Bronston, a New York State Senator and lawyer for Convenience & Safety, was indicted for mail fraud in connection with the bidding. A detailed report

prepared by Stanley Lupkin, the New York City Commissioner of Investigations, stated that Silverman had refused to answer questions in the investigation by the City's Department of Investigation on the ground that answering questions might compel him to be a witness against himself. When Bronston was sentenced after his conviction for mail fraud, the federal prosecutors stated in their sentencing report that "[t]he two principals of [Convenience & Safety], its Chairman of the Board Saul P. Steinberg and its President Henry R. Silverman, refused to testify exercising their Fifth Amendment protection against self-incrimination," and as a result "the complete parameters of Bronston's activities promoting [Convenience & Safety] . . . . are not yet known." In rebidding the bus shelter contract, Mayor Edward Koch of New York City specifically prohibited Silverman's company, Convenience & Safety, from participating in the bidding. Clearly, insurance regulators must look closely at the character and fitness of Mr. Silverman to control American Bankers.

f. Based upon public information, including court filings, and news articles, at least the following facts have been reported about Mr. Silverman's association with four companies that ended up in bankruptcy:

(i) Days Inns of America, Inc. Motel Chain: In 1984, Silverman's Reliance Capital acquired Atlanta-based Days Inns of America, which consisted of 300 motels, including 140 company-owned inns, from the Cecil Day estate for $570 million. Financing for the leveraged buyout came from $285 million in junk bonds issued by Drexel Burnham Lambert. Reliance Capital put just $16 million

in equity into the deal. Among the investors who reportedly put up the additional capital to buy the chain was Drexel Reliance Capital Group.

The head of Reliance, Saul Steinberg, placed Silverman at the helm of Days Inns. Silverman slashed the size of the corporate headquarters staff by more than half, sold all but about 20 of the company's motels to franchisees for $423 million, and initiated a franchising spree that tripled the size of the chain to 900 properties by 1990. The sale of the company's chain led some newspaper reporters to call Steinberg an "asset-stripper."

In December 31, 1985, Reliance took Days Inns public, raising $25 million for the company. But Reliance and the Milken partnership retained 45% of the company's stock after the completion of the initial public offering.

Days Inns was carrying a huge $535 million debt load with just $600 million in total assets. In fact, debt was a constant theme at Days Inns while Silverman ran the company. After Reliance acquired the hotel chain in 1984, Days Inns always maintained between $455 million and $600 million in long-term debt. Silverman constantly refinanced the debt, almost always with junk bonds issued by Drexel Burnham Lambert. Between 1984 and 1989, Drexel issued almost $1 billion in junk bonds for Days Inns. The debt load was so heavy that Silverman joked to one interviewer that Days Inns was "like Mexico. We don't pay down debt, we just reschedule it."

In November 1989, Reliance and its backers sold their interest in Days Inns to Tollman-Hundley Lodging, Corp. for $87 million, of which $8 million was in cash and the rest in junk bonds from Drexel Burnham Lambert. Tollman-Hundley also agreed to assume the company's $620 million debt, for a total price of $765 million. According to the November 25, 1991 edition of Forbes, Reliance made a profit of almost $60 million and Silverman's personal share of the profit amounted to $5 million. Reliance and Silverman escaped from Days Inns just in time. In 1990 Tollman-Hundley could not refinance the company's mounting debt load and short amortization schedule. In September 1991, Days Inns filed for protection under Chapter 11 of the bankruptcy code.

(ii) HFS Investment in Amre, Inc.: In the fall of 1995, HFS announced that it had invested in Amre, Inc., a Dallas-based installer of vinyl siding and roofs on homes. SEC filings show that HFS acquired a 2% equity stake in the company. With the deal, Amre began to sell its products under HFS' Century 21 brand name. Between the fall of 1995 and the spring of 1996, Amre's stock price

rose from $5 a share to $28.75 a share. In the fall of 1995, a new management team, including three HFS officers, was brought in to run the company. In September 1996, the company sold 1.1 million shares of stock to the public at $16 a share.

But in October 1996, the company announced that it had lost $10.9 million in its third quarter. The company predicted a significant loss in the fourth quarter because of high marketing expenses and a low order backlog. On January 17, 1997, Amre filed for bankruptcy protection. Trading in the company's stock was suspended, with the stock being last quoted at 43.75 cents a share. HFS wrote off its investment in Amre, Inc., and took a charge of $9.5 million on amounts owed to HFS by Amre.

(iii) Telemundo Group, Inc.: On December 24, 1986, Reliance Capital Group L.P. paid $283.5 million for 100% of the outstanding stock of John Blair & Co. which it later renamed Telemundo Group, Inc. ("Telemundo"). The purchase was financed with $226 million in junk bonds issued by Drexel Burnham Lambert, Inc.

As of August 1987, Reliance Capital Group L.P. controlled 85% of Telemundo shares outstanding. Henry Silverman served as Telemundo's chairman from October 1986 to January 1987 and then president and CEO from February 1987 to February 1990.

Telemundo began buying broadcasting properties owned by Reliance. At the same time, the company began an accelerated program to dispose of virtually all the other assets it had inherited from John Blair & Co. In December 1986, Telemundo began systematically dismantling the company. "As a result, what might have been a billion-dollar corporation a few years away will end up with operations producing less than a hundred million dollars." Moving and Shaking at John Blair & Co., Broadcasting, Nov. 24, 1986, at 68.

As of June 30, 1987, Telemundo owned and operated five Spanish-language television stations, and in 1988 purchased a Spanish-language television station in Texas and television facilities in Florida. In August 1990, Telemundo acquired an 85% equity interest in station in a San Antonio, Texas.

Apparently, Telemundo never got off the ground financially. Saddled with $189 million in debt following Reliance's purchase of the company and the purchase of the formerly Reliance-owned Spanish-language television stations in Los Angeles and New

York, the company lost $26.3 million in the first six months of 1987. In addition, the company had a working capital deficit of $48.4 million.

By March 1987, a working capital deficit forced Telemundo to ask its bankers for a waiver on debt repayments. In August 1987, Telemundo issued 2 million shares of common stock and $220 million of Drexel issued junk bonds to the public. According to an August 10, 1987 Business Week article, "Telemundo owes so much while earning so little that it's paying out more in cash for interest than it makes." Robert Barker, Steinberg May Have Trouble Making Money in Spanish, August 10, 1987, at 29. As of December 31, 1987, the company was carrying long-term debt of $240.7 million (more than three times revenues), up from $184.8 million a year previously. Telemundo's fortunes continued to decline and in 1990, Telemundo lost $11.9 million on sales of $127.8 million.

Henry Silverman apparently left Reliance Capital Corp. in January 1990 to become a general partner at the Blackstone Group in New York City, but he remained a director of Telemundo at least through May 2, 1994.

On January 15, 1992, Telemundo announced that it was developing a financial restructuring plan in order to reduce the company's $250 million long-term debt. From that date onwards, Telemundo ceased making interest payments on its outstanding debt, and failed to make principal payments upon their maturity. As of mid-1993, Telemundo had defaulted on all of its debt, which totaled $309 million as of December 31, 1993.

On June 8, 1993, Telemundo's creditors filed an involuntary petition under Chapter 11 of the Bankruptcy Code against Telemundo in U.S. Bankruptcy Court in New York City. On July 30, 1993, Telemundo consented to the entry of an order for relief under Chapter 11 of the federal bankruptcy statutes in U.S. Bankruptcy Court in New York City.

(iv) Occidental Plaza Hotel: According to a July 14, 1997 article in the Miami Daily Business Review, in 1981 a group of investors led by Henry Silverman and Adrian Werner acquired the Occidental Plaza Hotel in Miami, Florida, for $8 million. Goldome Bank for Savings ("Goldome") foreclosed on the title in 1985 after loans on the property reached $14.9 million.

According to Dade County property records, on August 12, 1982, Adrian Werner sold the hotel to a Florida limited partnership called Dallas Parc Associates, Ltd.

According to documents on file at the Florida Secretary of State's office, the officers and directors of Dallas Parc Associates, Inc. were Henry R. Silverman, Adrian B. Werner, and Peter F. Edelman.

Property records show that Goldome foreclosed on the hotel property, which was still owned by Dallas Parc Associates, Ltd., on April 18, 1984. In June 1994, Silverman and two of his partners filed an action in New York State court against their fourth partner to contribute to the deficiency judgment that was entered against the partnership in the Florida foreclosure action brought by Goldome and the Dime Savings Bank of New York.

g. Silverman's association with Telemundo resulted in state and federal litigation in which courts made extremely adverse findings about Silverman and the companies with which he was associated:

(i) Telemundo Pension Plan ERISA Violations: The 1987 purchase of Blair assets resulted in a 1990 federal action commenced by the John Blair Communication, Inc. Profit Sharing Plan alleging that the Telemundo Group Profit Sharing Plan, its committee and committee members, including Silverman, breached their fiduciary duties under the Employment Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. ss. 1001 et seq. Plaintiffs claimed, inter alia that defendants failed to credit appreciation of assets between the valuation date and the dates on which the transfer of plan assets was effected in connection with the acquisition. On June 15, 1994, the United States Court of Appeals for the Second Circuit held that the defendants -- including Henry Silverman -- violated ss. 208 of ERISA and their fiduciary duties by failing to transfer gains between the valuation date and the dates of actual transfers. The Court also held that defendants -- including Henry Silverman -- violated ss. 404 of ERISA and their fiduciary duties by keeping for Telemundo's pension plan the surplus income earned during Telemundo's delay in transferring assets from an equity fund to a short term investment fund pursuant to elections of new plan members.

(ii) Irregularities in Telemundo's Financial Statements: In 1988, John Blair Communications, Inc., the successor in interest to JHR Acquisition Corp., filed suit in New York State court, alleging that it had been defrauded by Henry

Silverman, Telemundo Group, Inc., and others, including Telemundo's accountant, Touche Ross & Co., when it purchased Telemundo's television and entertainment ("TV Rep") operations.

In its complaint, JHR alleged that prior to the sale of the TV Rep unit to JHR Acquisition, Silverman and two of his top deputies at Telemundo deliberately altered the revenue and expenses figures and made other fraudulent adjustments to the budget figures for the TV Rep unit, which inflated the unit's operating profit and cash flow figures. As a result, JHR Acquisition alleged that it spent more money to buy the unit than it was really worth.

The defendants moved for summary judgment dismissing the action, but the trial court denied the motion as to all defendants except Touche Ross & Co. In reversing the trial court's decision and reinstating the action against Touche Ross, the Appellate Division found that "[t]he record reflects that the financial statements were indeed misleading and substantially inflated the value of [TV Rep's] divisions." John Blair Communications, Inc. v. Reliance Cap. Group, L.P., 549 N.Y.S. 2d 678, 679 (App. Div. 1st Dep't 1990)

After almost six years of court battles, the case was settled in January 1995, with Telemundo apparently paying the plaintiffs $26 million in notes and $3.87 million in cash.

h. Insurance regulators want assurances that management obtaining control of insurance companies can manage them. Silverman's companies have been hit with allegations of poor management:

> "After Silverman buys a company he slashes expenses and hits the road to sign up independent operators and to entice franchisees of other chains to switch flags. Then he sits back to collect royalties of between 6% and 8.8% of room revenues. Industry watchers criticize him for running shlocky, unsafe hotels. 'Just show him a door, and he'll give you a franchise' carps one critic."

Faye Rice, Why Hotel Rates Won't Take Off -- Yet, Fortune, Oct. 4, 1993, at 125.

According to a January 16, 1995 article in USA Today, critics of Silverman have said that "[I]n the drive for bigger profits. . . [Silverman] slowly damages hotel chains' reputations by selling franchises to hotels that don't meet standards. Over time, they say, travelers will lose faith in the chains because of bad experiences with individual hotels."

i. Various published reports refer to decreases in quality of the lodging operations as a result of Cendant's franchising strategy, and quality complaints have increased as a result of Cendant's aggressive financing campaign. In 1994, the magazine Consumer Reports rated Cendant's Howard Johnson and Ramada chains the two worst chains in the moderately priced category. Previous Consumer Reports (September 1990) had rated Ramada as the third best and Howard Johnson as the fourth best chains in this category. One franchise holder, who owns three Super 8 motels for HFS, was quoted by USA Today on January 16, 1995 as saying "Super 8 is a wonderful organization and (Silverman) is ruining it. At some point, Mr. Silverman will know when to get out and he'll leave the rest of the shareholders holding the bag." Plainly, Silverman's prior affiliation with companies that have gone into bankruptcy and allegations of poor management will be the subject of detailed investigation by state insurance regulators. No such issues exist with respect to approval of the AIG Merger by state insurance regulators.

j. Cendant has limited experience in the business of insurance and clearly does not have the level and degree of experience of AIG. In one recent filing with the Texas State Insurance department, Cendant reports that it markets -- but does not underwrite -- accidental death and dismemberment and accident insurance policies. Cendant acknowledges that it "primarily engages in three business segments: membership services, travel and real estate" -- none of which is related to insurance. Indeed, Cendant has been publicly disdainful of the requirement that it be competent to run an insurance company, an attitude certain to concern insurance regulators. Walter Forbes of Cendant was reported in the February 4, 1998 Miami Herald as "refut[ing] the notion that to sell insurance you have to be in insurance":

> "To us, its marketing. We're a direct marketer, and we're getting more customers every day. Anybody can provide insurance, but you've got to be able to sell it."

Moreover, Cendant's recent proposed acquisition of an insurance company -- Providian Auto and Home Insurance Company ("Providian") -- does not increase Cendant's experience in the insurance business. First, Cendant has not completed the acquisition, and hence has no experience running Providian, only experience acquiring it: nobody doubts Henry Silverman's ability to acquire companies, only his ability to run them. Second, Providian and its property and casualty subsidiaries, "which predominately market personal automobile insurance through direct marketing channels"

in 45 states and the District of Columbia, has a relatively narrow market presence. By contrast, AIG is a holding company which, through its subsidiaries, is primarily engaged in a broad range of insurance and insurance-related activities and financial services in the United States and abroad, including both general and life insurance operations. AIG's general insurance operations are among the largest in the United States, and its international property-casualty network and life insurance operations are the most extensive of any U.S.-based insurance holding company. State insurance regulators will have to examine Cendant's insurance experience carefully (and compare it to AIG's) before approving any merger with American Bankers.

Cendant Has Falsely Contended That It Can Achieve Outlandish Sales Growth and "Synergies".

31. During the January 27 Analysts Call, Silverman stated that: "We think we can add several million new policies outside the U.S. over the next few years." This statement is knowingly false because the addition of "several million new policies" in just a "few years" outside the United States is a virtually impossible task for a company that does not have an international insurance marketing network and is not in the business of general and life insurance. Silverman's statement was plainly designed to deceive shareholders into thinking that Cendant is in the insurance business and that such a massive task could be performed easily and without any problem in merely a "few years."

32. During the January 27 Analysts Call, Silverman also stated that:

> "And forward, the combination of our companies should result in considerable cost savings. While we expect to maintain ABI's operations substantially as they are today, direct marketing is a volume game. Direct mail, call center and telecommunications costs should all fall on a per-unit basis. In tele, we've already identified about $140 million of pre-tax synergies, which is about 10 cents per Cendant share. Now, please note, this is (1) without any due diligence, and (2) assumes no reduction in head count or facilities. These gains come from using our distribution system to increase ABI's product penetration in the U.S. and in international markets"

33. Silverman's representation that $140 million in pre-tax synergies (mostly through increased revenues) would be achieved is knowingly false and misleading. As Silverman well knows, increasing American Bankers' net premium revenues necessarily increases certain expenses, such as commissions and reserves for anticipated claims by holders of new American Bankers policies. These costs alone have consistently averaged 80% of American Bankers' net premium income over the last five years. Cendant cannot simply add potential additional net premiums earned to American Bankers' existing revenues and characterize them as "synergies." Even accepting Silverman's unsupported statement that Cendant can increase American Bankers' net premiums without increasing operating expenses, a $130 million increase in net premiums earned less commissions and provisions for claims would require that American Bankers' net premiums earned increase by $650 million -- a 47% increase over 1996 net premiums earned. Silverman's claim that Cendant can achieve $140 million in synergies falsely assumes that

American Bankers will incur no corresponding increase in the number of claims filed against the combined entity. Silverman and Cendant's "synergy" claim is inflated and unachievable.

34. Silverman's oral statements concerning synergies clearly constituted an "offer to sell" Cendant stock to American Bankers' stockholders--for which a registration statement should have been filed. Silverman's statements were picked up by newspapers, newswires and analysts' reports and, thus, were disseminated into the public domain. All of these reports repeated Silverman's statement concerning $140 million in pre-tax synergies expected from the Cendant Merger. An Article in the Wall Street Journal dated January 29, 1998, confirmed how Silverman's oral statements concerning synergies could influence market pricing, reporting: "one American Bankers' investor predicts the offering price could climb above $60 per share based on Cendant's calculation that it can achieve $140 million in pretax income from the operation."

Cendant Falsely Claims its Offer Has "No Financing or Other Significant Conditions" And Is "On Equal Footing with AIG".

35. Silverman further stated that "[w]e have no financing or other significant conditions, and we believe we are on equal footing with AIG in all relevant ways, including timing." Silverman knew his representation was false. The insurance regulatory approval process for the AIG Merger is much further along than the approval process for the proposed Cendant Merger. As noted above, Cendant is not in the business of underwriting insurance and

its financial condition and history is questionable; in short, the regulatory approval process for the Cendant Merger will prove to be a far greater obstacle than Silverman chose to disclose. Moreover, contrary to Silverman's statement, the Cendant Offer is subject to a number of significant conditions, including (i) a condition that certain provisions of the AIG Merger Agreement be terminated or declared invalid; (ii) at least 51% of American Bankers' shares must be tendered under the Cendant Offer on a fully diluted basis, (iii) antitrust approval under the Hart-Scott-Rodino Act; (iv) 2/3 approval of American Bankers' shareholders and majority approval of American Bankers' shareholders or directors of the voting rights of the shares that Cendant acquires under the Cendant Offer; (v) satisfaction of American Bankers' supermajority vote specifying that 85% of shareholders approve the deal (which condition will be satisfied if 75% of the directors approve the deal); (vi) American Bankers' shareholder rights plan does not apply to the Cendant Offer; (vii) AIG's option to purchase 19.9% of American Bankers' stock is not exercised or is deemed to be invalid; and (viii) Cendant receives all the required insurance regulatory approvals.

Cendant Commences its Tender Offer

36. On January 28, 1998, Season and Cendant commenced the Cendant Offer and filed a Tender Offer Statement on Schedule 14D-1. The Schedule 14D-1, which was disseminated to American Bankers' shareholders, contained a number of materially false and misleading statements and omissions and repeated several misleading statements that Silverman

had made during the January 27 Analysts Call. Specifically, the Schedule 14D-1 disclosed that State Insurance Codes "provide certain statutory standards for the approval of the acquisition of control of the Company [American Bankers]. The Insurance Codes, however, permit the Insurance Commissions discretion in determining whether such standards have been met." (Cendant Schedule 14D-1 at 8, annexed hereto as Exhibit C) The Schedule 14D-1 failed, however, to disclose that Cendant would find it difficult, if not impossible, to secure regulatory approval, and the reasons why such approval would be difficult.

37. The Schedule 14D-1 also stated that Season was making an offer to purchase 51% of the "outstanding shares of American Bankers for $58.00 per common share in cash." Upon receipt of 51% of American Bankers' shares, Cendant proposed a tax-free merger pursuant to which each remaining share of American Bankers stock would be "converted into shares of Cendant common stock having a value of $58.00." (Cendant Preliminary Proxy Statement, Letter to American Bankers Shareholders, annexed hereto as Exhibit D) The Schedule 14D-1, however, states only that it is Cendant's "current intention" -- rather than binding obligation -- to offer Cendant's common stock worth $58.00. Cendant should clearly disclose exactly what stockholders will receive in the Cendant Offering.

38. Furthermore, although Cendant brashly asserts that it can issue any amount of Cendant shares necessary to provide $58.00 in value on a given date, it has never provided American Bankers shareholders with a pro forma presentation of Cendant's earnings if it had to

issue such stock. It also failed to disclose the facts required to be disclosed in a registration statement under Section 5 of the 1933 Act including the risk factors affecting Cendant stock, its plan for American Bankers, pro forma financial statements and projections, and the compensation arrangements that have been permitted Henry Silverman (including disclosure of a sale by Mr. Silverman of approximately $62 million in Cendant stock on February 5, 1998). These are important and material facts that should be disclosed to American Bankers' shareholders.

39. The Schedule 14D-1 (and subsequent proxy materials) also repeatedly claimed that American Bankers shareholders would receive $58.00 worth of cash and stock. However, the Schedule 14D-1 failed to disclose that the partial currency of the Cendant Merger -- Cendant's common stock -- is likely to be as volatile as the stock of its predecessor HFS. Thus, the Schedule 14D-1 failed to disclose that the $58.00 package of cash and securities may be worth much less in the days and weeks after the Cendant Merger closes. Indeed, on March 7, 1997, Silverman admitted during a CNN interview that "as a CEO, you have to deal with the ups and downs of people's emotional fortunes if you will, when our share prices go up and down, and our stock has been extremely volatile." Transcript from CNN Business Day, March 7, 1997. The potential volatility of Cendant stock was most graphically illustrated in 1996 when, upon Silverman's announcement that he intended to sell up to 5% of his stock, HFS' stock price fell

by over 6%. A December 2, 1996 Business Week article highlighted the volatility of HFS' stock:

> "Silverman's hold on his fortune is hardly rock solid. After its dizzying climb, the stock has become stunningly volatile. When Silverman disclosed on Sept. 3 that he might sell as much as 5% of his holdings each year for estate-planning purposes, the stock fell 6.1% on fears he was reducing his role. (In fact, his compensation plan lets him earn more stock than he would cash out.) And since the PHH purchase, his biggest single deal, was announced, the stock has fallen nearly 13%, closing Nov. 19 at 63 5/8."

Joseph Weber, The Real Artist of the Deal, Business Week, Dec. 2, 1996, at 114. (A copy of that article is annexed hereto as Exhibit E.) Neither the Schedule 14D-1 nor any of Cendant's public filings disclose the recent volatility of HFS stock, Silverman's recent sale of $60 million in Cendant stock or potential volatility of Cendant stock, and the serious risk that American Bankers' shareholders may not get $58.00 per share immediately after the Cendant Merger closes. These are precisely the types of risks required to be disclosed in a Registration Statement under the 1933 Act.

40. The Schedule 14D-1 prominently disclosed that the Cendant Offer is "not conditioned upon purchaser obtaining financing." (Cendant Schedule 14D-1 at 7.) This statement is misleading because Cendant's acquisition company, Season, plans to obtain funds for the acquisition from a capital contribution from Cendant, which in turn plans to obtain such funds, in part, from available lines of credit and a new $1.5 billion 364-day Revolving Credit Facility pursuant to a commitment letter, dated January 23, 1998, among Cendant and a third

party lender -- Chase Manhattan Bank -- and an affiliate of Chase Manhattan. The lender's obligations under the commitment letter are subject to conditions, including a condition that Chase Manhattan has received "execution and delivery . . . of definitive documentation. . . satisfactory to Chase and its counsel." (Cendant Schedule 14D-1 Exhibit (b)(3) at 3.) Furthermore Chase's financing "commitment" also is subject to its judgment that no event in the financial, banking or capital markets will impair its syndication efforts. (Id.; see also Cendant Schedule 14D-1 at 24.) Plainly, the suggestion that the Cendant Offer is not conditioned on financing is misleading because Cendant's failure to satisfy the lender's conditions will result in Cendant's inability to finance the Cendant Offer.

41. The Schedule 14D-1 further fails to disclose that a substantial portion of Cendant's business is exposed to substantial risks of a business downturn. Cendant's major lines of business -- motels, car rental, travel and real estate brokerage -- have reached historic high levels after severe slumps in the early 1990s. If economic activity slows in the United States, the travel and travel-related businesses in which Cendant depends for its cash flow will be affected disproportionally, with severe consequences for Cendant's franchise revenues. Nor does the Schedule 14D-1 disclose that Cendant's mortgage business will be adversely affected by a continued decline in interest rates. Furthermore, the Schedule 14D-1 fails to disclose that mortgage prepayments and refinancings may shorten the recovery period for deferred mortgage

issuance costs. Again, had Cendant filed a Registration Statement under the 1933 Act, it would have had to disclose the risks.

42. Neither Cendant's Schedule 14D-1 (nor any subsequent public filings) disclosed key and material information about Silverman, his checkered business history, and his affiliation with entities that had declared bankruptcy just after he left. (See paragraph 30 above). Nor did Cendant's Schedule 14D-1 (or any other public filings) disclose or explain Cendant's and HFS's strategy of acquiring businesses with strong cash flows but few tangible assets and the importance of increased acquisitions of the same type in order to maintain current high earnings. Thus, the Schedule 14D-1 (and Cendant's later filed preliminary proxy materials) failed to disclose that a decrease in the number of such acquisitions would create serious downward pressure on earnings.

Cendant Commences the Solicitation of Proxies Against the AIG Merger.

43. On January 30, 1998, Cendant filed its preliminary proxy statement ("Cendant Preliminary Proxy Statement") with the SEC. Cendant filed a subsequent preliminary proxy statement on February 10 and, on February 12, 1998 filed a definitive proxy statement that was mailed to American Bankers' shareholders. (A copy of the Definitive Proxy Statement dated February 12, 1998 ("the Proxy Statement") is annexed hereto as Exhibit F). The Proxy Statement urged American Bankers' shareholders to vote against the AIG Merger and repeated many of the misstatements and omissions previously disseminated by Cendant.

44. The Proxy Statement thus stated:

> The Cendant transaction offers a significantly higher value per American Bankers common share than the Proposed AIG Merger by giving you cash and/or stock with a combined per common share value of $58.00, representing a premium of $11.00 (in excess of 23%) over the Proposed AIG Merger.

(Proxy Statement, at Letter to American Bankers Stockholders dated February 12, 1998.) This statement is false and misleading because it implies that American Bankers' shareholders are receiving a fixed value for their shares when in fact they are receiving something far more speculative -- Cendant stock. If the volatility of HFS stock is any indication, Cendant's stock will be extremely volatile on a going forward basis.

45. The Proxy Statement also refers to the fact that the board of American Bankers agreed to pay AIG a termination fee of $66 million under certain circumstances. Although Cendant states that "the AIG Termination Fee constitutes a significant obstacle to your receiving the maximum value for your Shares" (Proxy Statement at 13), the proxy materials fail to disclose that termination fees are appropriate, customary and usual in such transactions and that the $66 million fee is eminently reasonable in the context of a $2.2 billion transaction. Indeed, in responding to the question by a securities analyst on January 27, 1998 whether the option to purchase 19.9% of American Bankers' common stock or the termination fee would "create a problem for Cendant in its acquisition of [American Bankers'] shares," Henry Silverman responded:

> "No, it's just money. The contract with ABI provides that AIG is limited to the higher of the profit on their stock, if any, or $66 million as a break-up fee . . . sorry, the lower of . . . they're capped at $66 million. So really, it's just a monetary issue."

Clearly, Cendant says what suits its purpose, even if what it proposes to say to shareholders is exactly contradicted by what it tells its friends in the financial community.

46. Cendant's Proxy Statement sent to American Bankers' shareholders charged that "[b]y entering into the AIG Lockup Option Agreement, your Board of Directors has created a further obstacle to your receiving the maximum value for your Shares and has agreed to dilute your equity in American Bankers or pay money to AIG in certain circumstances involving a competing proposal to acquire American Bankers at a price in excess of $47.00 per common share." (Proxy Statement at 13.) However, Cendant has failed to disclose that lockup options such as those at issue here have been found to be legal, valid and have become customary in mergers and acquisitions transactions and that the likelihood of a court declaring the lock up option invalid -- a condition to the Cendant Offer -- is extremely low.

47. In addition, the Proxy Statement failed to disclose that on February 6, 1998, Cendant and Season were sued by AIG and AIGF, Inc. in the United States District Court for the Southern District of Florida for violating Section 14(a) and 14(e) of the Exchange Act in connection with the solicitation of votes from American Bankers' shareholders. American Bankers' shareholders would clearly find the fact that the entities that are soliciting their votes

have been sued for violating the federal securities laws in connection with that solicitation effort to be material.

48. The Proxy Statement urged American Bankers' shareholders to vote against the AIG Merger and repeatedly touted the value of the Cendant Offer, all in violation of Section 5 of the 1933 Act and Section 14(a) of the Exchange Act. For example, there are references throughout the Proxy Statement (and its predecessor preliminary proxy statements filed on February 10 and January 30, 1998) to the purported value of Cendant's Offer, including the value of its stock, and comparisons of the value of its stock to the value of the consideration to be paid in the AIG Merger. For example, the Proxy Statement states:

> "o A VOTE AGAINST THE PROPOSED AIG MERGER ALLOWS YOU THE OPPORTUNITY TO RECEIVE GREATER VALUE FOR YOUR SHARES.
>
> The Cendant Offer would provide $58.00 per Common Share in cash and in the Proposed Cendant Merger each remaining Common Share would be converted into the number of shares of Cendant Common Stock having a value of $58.00 (as determined as of the time of the Proposed AIG Merger. . .), representing a premium of $11.00 (in excess of 23%) over the per Common Share value of the Proposed AIG Merger.
>
> o A VOTE AGAINST THE PROPOSED AIG MERGER SENDS A STRONG MESSAGE TO AMERICAN BANKERS' BOARD OF DIRECTORS THAT YOU WANT TO PRESERVE YOUR OPPORTUNITY TO ACCEPT THE CENDANT OFFER, WHICH HAS SIGNIFICANTLY GREATER FINANCIAL VALUE THAN THE PROPOSED AIG MERGER."

(Proxy Statement at 12.)

49. Cendant's violations continue and American Bankers shareholders still do not have the benefit of a registration statement setting forth critical information about Cendant, a company formed only two months ago as a result of a merger between HFS Incorporated and CUC International. Clearly, Cendant wants to avoid informing American Bankers' shareholders of the substantial risks they would face if they had to accept Cendant shares in exchange for their American Bankers shares.

50. Cendant's Proxy Statement confirms that Cendant intends to hold and vote proxies of American Bankers' shareholders. Most states, including five out of the six states in which American Bankers' insurance subsidiaries are domiciled -- Arizona, Georgia, New York, South Carolina and Texas -- require regulatory approval before a person can acquire "control" of an insurance company; such states presume that "control" exists if a person holds proxies representing a specific percentage or more of the voting securities of any other person. See e.g., Ariz.Rev.Stat. ss. 20-481(3) (1996) ("[c]ontrol shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote or holds proxies representing ten percent or more of the voting securities of any other person.") (emphasis supplied); Ga. Code Ann. ss. 33-13-1(3) (1997) ("[c]ontrol shall be presumed to exist if any person directly or indirectly owns, controls, holds with the power to vote, or holds proxies representing 10 percent or more of the voting securities of any other person.") (emphasis supplied); N.Y. Ins. Law ss. 1501(a)(2) (McKinney 1997) ("control shall be presumed to exist if any person directly or indirectly owns,

controls or holds with the power to vote ten percent or more of the voting securities of any other person.") (emphasis supplied); S.C. Code Ann. ss. 38-21-10(2) (1997) ("[c]ontrol is presumed to exist if any person, directly or indirectly, owns, controls, hold with the power to vote, or holds proxies representing ten percent or more of the voting securities of any other person.")(emphasis supplied); Tex. Ins. Code Ann. ss. 21 49-1(2)(d) (1997) ("[c]ontrol shall be presumed to exist if any person, directly or indirectly, or with members of the person's immediate family, owns, controls, or holds with the power to vote, or if any person other than a corporate officer or director of a person holds proxies representing, 10 percent or more of the voting securities or authority of any other person.") (emphasis supplied).

51. Neither Cendant's Schedule 14D-1 nor the Proxy Statement disclose that Cendant cannot acquire or vote proxies representing 10% or more of American Bankers voting securities without prior regulatory approval in five of the six states in which American Bankers' insurance subsidiaries are domiciled. Cendant knows it cannot hold or vote proxies representing 10% or more of the votes of American Bankers shareholders without prior regulatory approval - -- let alone vote those shares -- but has failed to disclose that fact because it knows that if it told the truth American Bankers' shareholders would not grant proxies to Cendant.

52. Cendant is misleading American Bankers' by creating the false and misleading impression that Cendant can hold and vote proxies without regulatory approval. Unless Cendant halts its current proxy solicitation effort and makes immediate corrective disclosure, Cendant

will continue to deceive American Bankers' shareholders into giving their proxies to Cendant under the mistaken impression that Cendant can actually hold and vote those proxies on March 4 and March 6, 1998 when, in fact, Cendant is absolutely prohibited from doing so under state law unless it has regulatory approval--which it does not. These shareholders will be disenfranchised in exactly the manner that suits Cendant: their failure to vote will count as a vote against the merger of AIG and American Bankers because approval of the AIG Merger requires affirmative votes from a majority of the outstanding common and preferred shares of American Bankers, not just a majority of shares that vote. This Court cannot allow Cendant to intentionally deceive and mislead American Bankers' shareholders in this fashion.

COUNT ONE

(Section 14(a) of the Exchange Act)

53. AIG and AIGF repeat and reallege paragraphs 1 through 52 as if set forth herein.

54. Section 14(a) of the Exchange Act provides that it is unlawful to use the mails or any means or instrumentality of interstate commerce to solicit proxies in contravention of any rule promulgated by the SEC. 15 U.S.C. ss.78n(a).

55. Rule 14a-9 provides in pertinent part:

> "No solicitation subject to this regulation shall be made by means of any . . . communication, written or oral, containing any statement which, at the time, and in light of the circumstances under which it is made, is false and misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading...."

17 C.F.R. ss.240.14a-9.

56. Each of the false and misleading statements by Cendant, Season and Silverman detailed above is a statement made under circumstances reasonably calculated to result in the procurement of proxies or votes from American Bankers shareholders. As such, those statements are subject to the strictures of Section 14(a) and Rule 14a-9.

57. Each of the false and misleading statements detailed above were and are material to the decisions of American Bankers' shareholders concerning whether to vote for or against the AIG Merger, since such false and misleading statements are intended to suggest, and do suggest, that the AIG Merger is not a viable or realistic transaction and is not in the best interest of American Bankers' shareholders and that if American Bankers' shareholders vote to tender their shares into the Cendant Offer, they will be voting for a superior transaction. Furthermore Cendant's statements are materially false and misleading because Cendant has purposefully failed to tell shareholders it cannot hold or vote proxies that, together with the 0.79% of American Bankers common shares that it already owns, represent more than 10% of American Bankers' voting securities without violating state insurance laws.

58. Cendant and Seasons made each of the false and misleading statements detailed above intentionally and with knowledge of their falsity and misleading nature for the purpose of inducing American Bankers' shareholders to vote against the AIG Merger and tender their shares into the Cendant Offer.

59. Cendant and Season's false and misleading statements described above are essential links in defendants' efforts to consummate a combination of Cendant with American Bankers at whatever cost to American Bankers' shareholders and have injured -- and are continuing to injure -- AIG, AIGF and American Bankers' other shareholders.

60. AIG and AIGF have no adequate remedy at law.

COUNT TWO

(Section 14(e) of the Exchange Act)

61. AIG and AIGF repeat and reallege paragraphs 1 through 52 as if set forth herein.

62. Section 14(e) of the Exchange Act provides that:

> It shall be unlawful for any person to make any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, or to engage in any fraudulent, deceptive, or manipulative acts or practices, in connection with any tender offer or request or invitation for tenders, or any solicitation of security holders in opposition to or in favor of any such offer, request, or invitation.

15 U.S.C. ss. 78n(e).

63. Each of the false and misleading statements and omissions by Cendant, Season and Silverman detailed above are statements made under circumstances reasonably calculated to result in the tender of American Bankers shares from American Bankers shareholders into the Cendant Offer. As such, those statements are subject to the strictures of Section 14(e).

64. Each of the false and misleading statements detailed above was and is material to the decisions of American Bankers' shareholders concerning whether to vote for or against the AIG Merger and to tender their shares into the Cendant Offer, since such false and misleading statements are intended to suggest, and do suggest, that the AIG Merger is not a viable or realistic transaction and is not in the best interest of American Bankers' shareholders and that if American Bankers' shareholders vote against the AIG Merger and tender their shares into the Cendant Offer, they will be voting for a superior transaction. Furthermore Cendant's statements are materially false and misleading because Cendant has purposefully failed to tell shareholders it cannot hold or vote proxies that, together with the 0.79% of American Bankers common shares that it already owns, represent more than 10% of American Bankers' voting securities without violating state insurance laws.

65. Cendant and Seasons made each of the false and misleading statements detailed above intentionally and with knowledge of their falsity and misleading nature for the purpose of inducing American Bankers' shareholders to vote against the AIG Merger and tender their shares into the Cendant Offer.

66. Cendant and Season's false and misleading statements described above are essential links in defendants' efforts to consummate a combination of Cendant with American Bankers at whatever cost to American Bankers' shareholders and have injured -- and are continuing to injure -- AIG, AIGF and American Bankers' other shareholders.

67. AIG and AIGF have no adequate remedy at law.

COUNT THREE

(Section 14(a) of the Exchange Act based upon violation of Section 5 of the 1933 Act)

68. AIG and AIGF repeat and reallege paragraphs 1 through 52 as if set forth herein.

69. Section 5 of the Securities Act of 1933 provides that --

> "a. Unless a registration statement is in effect as to a security, it shall be unlawful for any person, directly or indirectly:
>
> (1) to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise; or
>
> (2) to carry or cause to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale.
>
> . . .
>
> c. It shall be unlawful for any person, directly or indirectly, to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding or examination under Section [8]."

15 U.S.C. ss.ss. 77e(a) and (c).

70. On November 7, 1997, the Division of Corporation Finance of the Securities and Exchange Commission ("SEC") issued a release entitled "Current Issues and Rulemaking

Projects" addressing the very circumstances presented here. See SEC Release (Nov. 7, 1997) the ("SEC Release"). The SEC release unambiguously stated (with emphasis added):

> In some cases involving a negotiated "friendly" merger or other business combination between a registrant and another entity (or person) that has been submitted to a shareholder vote, a third party may wish to present a competing proposal that would involve acceptance of the third party's securities as consideration (e.g., through an exchange offer or merger). Before commencing its own, competing transaction, however, the third party may wish to solicit in opposition to the "friendly" transaction then pending before the target company's shareholders. In such a case, the third party should remain mindful that, depending on the facts and circumstances, communications regarding its "competing" bid may be deemed an "offer to sell" the third party's securities that triggers the application of the registration requirements of the Securities Act, particularly where such communications refer to the price and/or other material terms of the potential competing transaction.
>
> . . . .
>
> In cases where the third party's solicitations trigger compliance with the registration and prospectus delivery provisions of the Securities Act, the third party should file promptly its registration statement to cover the securities offering to target shareholders.

71. Since January 27, 1998, Cendant and Silverman have made a number of statements concerning the AIG Merger and the alleged superiority of the Cendant Offer over the AIG Merger. Such statements included statements in press releases, statements by Silverman made to analysts on January 27, the Preliminary Proxy Statement filed with the SEC on January 30, 1998 and the Proxy Statement disseminated to American Bankers' shareholders on February 12, 1998. Such statements were not merely limited to factual information about

Cendant and a brief description of the Cendant Offer and Cendant Merger, but went much further and advocated the alleged superiority of the price being offered by Cendant and other material terms of the proposed transaction.

72. Silverman's oral statements during the January 27, 1998 analysts' conference call concerning the alleged superiority of the Cendant Offer and the expected synergies of $140 million were among the most egregious examples of "offers to sell" Cendant stock without filing a registration statement in violation of Section 5 of the 1933 Act. These oral statements clearly infected the marketplace because they were picked up by national and international newspapers and analysts. The fact that Cendant has chosen to make selective disclosure of this kind of information which is only relevant to someone who holds, or will hold, common stock of Cendant, without having to file a registration statement strikes at the heart of the registration process.

73. Cendant and Silverman's statements regarding the alleged superiority of the Cendant Offer and their urging of American Bankers shareholders to vote against the AIG Merger constituted an "offer to sell" the Cendant securities that would be issued in connection with the Cendant Merger. However, Cendant has failed to file a registration statement or to deliver a prospectus to American Bankers' shareholders, with respect to those securities. Accordingly, Cendant and Silverman have violated both Section 5 of the 1933 Act and Section 14(a) of the Exchange Act.

74. AIG and American Bankers' shareholders have been injured by Cendant's and Silverman's repeated and continued violations of Section 5 of the 1933 Act and resultant violation of Section 14(a) of the Exchange Act.

75. AIG and American Bankers' shareholders have no adequate remedy at law and the Court should issue an order halting any reference by Cendant or Season to the Cendant Offer or Cendant Merger until Cendant files a registration statement and delivers a prospectus to American Bankers' shareholders.

WHEREFORE, plaintiffs respectfully request that this Court enter judgment as follows:

Declaring that Cendant and Season have violated Sections 14(a) and 14(e) of the Exchange Act and Rule 14a-9 promulgated thereunder and requiring that each of them make prompt corrective disclosures;

Enjoining Cendant and Season, and their agents and employees, preliminarily and permanently, from further violating Sections 14(a) and 14(e) of the Exchange Act and Rule 14a-9;

Declaring that Cendant, Season, and their agents and employees have violated Section 14(a) of the Exchange Act through violating Section 5 of the 1933 Act by offering to sell securities without filing a registration statement;

Enjoining defendants (or any of their agents or employees) from holding or voting any proxies from American Bankers' shareholders to the extent such proxies exceed 10%

of American Bankers' common shares, without first obtaining approval from the insurance departments of Arizona, Georgia, New York, South Carolina and Texas; (ii) requiring defendants (or any of their agents or employees) to return any proxies they have received or receive from American Bankers' shareholders prior to making any corrective disclosures required by the Court; (iii) requiring defendants (or any of their agents or employees) to make corrective disclosure about their ability to hold or vote proxies without obtaining regulatory approval; and (iv) enjoining defendants (or any of their agents or employees) from making any statement regarding their proposal to purchase shares of American Bankers or the proposed merger between AIG and American Bankers, or from soliciting any proxies, until they file a Registration Statement pursuant to Section 5 of the Securities Act of 1933, and deliver a prospectus to American Bankers' shareholders;

Awarding AIG and AIGF the costs and disbursements of this action together with reasonable attorneys' fees; and

Awarding AIG and AIGF such other and further relief as the Court may deem just and proper.

Dated: February 16, 1998

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document was served on the 16th day of February 1998 on the following persons in the manner specified below:

BY FAX and FEDERAL EXPRESS

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BY HAND

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/s/ Tariq Mundiya

Tariq Mundiya

STATE OF NEW YORK
DEPARTMENT OF INSURANCE

IN RE STATEMENT REGARDING THE ACQUISITION OF CONTROL OF OR MERGER WITH A DOMESTIC INSURER (FORM A) OF AMERICAN INTERNATIONAL GROUP, INC., A DELAWARE CORPORATION, AND AIGF, INC., A FLORIDA CORPORATION, RELATING TO BANKERS AMERICAN LIFE ASSURANCE COMPANY, A DOMESTIC INSURER	))))))))	No. PETITION OF CENDANT CORPORATION AND SEASON ACQUISITION CORP. TO INTERVENE, TO CONSOLIDATE WITH RELATED PROCEEDING AND FOR A HEARING

INTRODUCTION

American International Group, Inc. and AIGF, Inc. (collectively, "AIG") are seeking to acquire control of American Bankers Insurance Group, Inc. and its subsidiaries, including Bankers American Life Assurance Company, a New York domestic life insurer (collectively, "American Bankers"), on terms and under circumstances that are inequitable to American Bankers' shareholders, that may substantially lessen competition in the market for inland marine insurance in New York, and that raise issues concerning the trustworthiness of AIG and those persons who control AIG. AIG is intent on acquiring American Bankers before American Bankers' shareholders can consider other alternatives, including a superior offer from petitioner Season Acquisition Corp., a wholly owned subsidiary of petitioner Cendant Corporation (collectively, "Cendant").

Both AIG and Cendant currently have pending before the Department applications for approval to acquire control of Bankers American Life Assurance Company ("Bankers American") (the "AIG Form A" and the "Cendant Form A," respectively). Cendant seeks to intervene in AIG's Form A proceeding, consolidate that proceeding with Cendant's own Form A proceeding, and demonstrate to the Department that AIG's Form A application should not be approved. As explained in this petition, the circumstances surrounding AIG's proposed acquisition of American Bankers (at a price that is $500 million less than Cendant has offered to pay) are highly irregular and require the Department's careful scrutiny. Because a number of serious issues are raised by AIG's application, each of which may require disapproval of AIG's application, Cendant further requests that the Department hold a public hearing on AIG's application, but only after the results of the shareholder vote on the proposed AIG/American Bankers merger are known.

SUMMARY OF ARGUMENT

In December 1997, after receiving a friendly inquiry from Cendant regarding a possible business combination, American Bankers rushed to finalize a merger agreement with AIG. A condition of the proposed merger required AIG to submit to the Department its pending Form A application. In connection with the proposed merger agreement, AIG offered to pay $47 per share for American Bankers' common stock. AIG itself estimated the value of this transaction to be

$2.2 billion. American Bankers' preferred and common shareholders are scheduled to vote on the proposed merger on March 4 and 6, 1998, respectively.

Fearing additional interest from other entities, including in particular Cendant, AIG and American Bankers drafted into their agreement provisions with an eye toward preventing American Bankers form entertaining or consummating a combination with any other potential acquirer. These terms include: (i) a "no shop" provision that expressly prohibits American Bankers from soliciting, negotiating or entertaining competing offers for 120 days; (ii) a lock-up option that gives AIG the right to purchase 19.9% of American Bankers common stock, an amount that, together with a voting agreement with certain of American Bankers' senior executives, may allow AIG to block any competing merger bid; (iii) a 180-day non-termination period that prevents American Bankers from terminating the merger agreement with AIG; and (iv) a "break up" fee penalty provision that calls for American Bankers to pay AIG $66 million if the proposed merger fails to be consummated.

A particularly egregious aspect, from the shareholders' perspective, of the AIG/American Bankers merger agreement is the lock-up option, which gives AIG an option to buy 19.9% of outstanding American Bankers' common stock no matter how superior the terms of a competing bid may be to American Bankers' shareholders and policyholders. The option is included in the merger agreement

solely as a defensive weapon, attempting to guarantee the survival of the AIG/American Bankers merger agreement even in the face of a superior rival offer.

On January 27, 1998, Cendant made a competing offer to purchase American Bankers for $58 per share, for a total price of approximately $2.7 billion, or $500 million more than AIG's offer. Cendant's proposal for the acquisition of Bankers American presently is the subject of a Form A application before the Department, submitted on January 27, 1998.

AIG sought immediately to foreclose Cendant's offer, seeking to exercise the 19.9% lock-up option by hurriedly giving notice to American Bankers of its intent to exercise the option. In public filings, AIG states that it gave American Bankers the required notice to exercise the option, which suggests that under its terms the option will have been exercised and closed within mere days of the giving of notice. In fact, however, the option cannot be exercised without the approval of American Bankers domiciliary states, including New York, which approvals have not yet been obtained. The statement's obvious intended effect is to give American Bankers' shareholders and others the impression that the option has been exercised, thus making any competing bids for American Bankers futile. That this is the only purpose of the lock-up option is confirmed by the fact that, even if AIG does

purchase the shares under the option, it may not vote them in favor of the proposed merger.(1)

AIG is further seeking to obtain an unfair advantage over Cendant by publicly conveying the impression that regulatory approval of AIG's applications in American Bankers' domiciliary states amounts to no more than a rubber stamp, while asserting that Cendant will receive rigorous scrutiny from those regulators and, ultimately, may not receive approval at all.(2) By making these statements, AIG is attempting to coerce American Bankers' shareholders to vote in favor of AIG's economically inferior offer by creating the perception that the Department will delay, or ultimately deny, approval of Cendant's application in hopes that this manufactured uncertainty will cause shareholders to forego Cendant's favorable transaction.

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(1) In a Form A application filed in Texas, AIG seeks separate and/or alternative approval of the lock-up option. Appendix Tab A (Texas Form A at 3 (January 9, 1998) (without attachments) ("In addition to the acquisition of control through the Merger as described above, this Statement of Acquisition seeks the Department's approval (to the extent required) for any future exercise of the full amount of the Option or any lesser amount which would trigger the statutory prior approval threshold set forth in the Insurance Code.")). Cendant believes (but does not know, because AIG's New York Form A has not been publicly disclosed) that AIG seeks that same approval in its New York Form A.

(2) By way of example, AIG has stated in a complaint filed in federal court in Florida that it is "likely to secure prompt insurance regulatory approval" and that Cendant will "find it difficult, if not impossible, to secure regulatory approval." Appendix Tab B (AIG complaint, dated February 5, 1998, at Paragraphs 24, 25).

The actions of AIG and American Bankers have been in obvious and complete disregard of the interests of American Bankers' shareholders and policyholders. Further, the impact in New York of these actions will be significant and harmful. In particular, the proposed AIG/American Bankers merger will likely substantially lessen competition in the market for inland marine insurance in this state. Still further, it appears from other filings by AIG and American Bankers that the Department has not been provided with all information required in a Form A filing, including, specifically, information about the identities and background of all persons who are controlling persons of AIG and who would become controlling persons of American Bankers, in particular Starr International Company, Inc., and, in turn, AIG's Chairman, Maurice R. Greenberg, who controls AIG through his control of Starr International Company, Inc., the Starr Foundation and C.V. Starr & Co. and, among other things, their interlocking directorships.

Each of the issues described above may require the Department to disapprove AIG's application to acquire control of Bankers American. Under these circumstances, the Department should schedule a hearing on AIG's Form A Application. However, the hearing should not be held until such time as American Bankers' shareholders have voted on the proposed AIG/American Bankers merger and the results of the voting are known. This timing will permit the Department and all parties who may participate in the hearing to avoid expending valuable time and

resources on what will essentially be a futile exercise should American Bankers' shareholders not approve the proposed merger. Further still, holding a hearing after the shareholder vote also will permit AIG's and Cendant's positions to be considered by American Bankers' shareholders on an even footing. Currently, AIG is attempting to seize unfair advantage over Cendant by creating the distorted impression to shareholders that regulatory approval of AIG's proposed transaction is imminent while approval for Cendant's proposal will come only at some future time, if at all. A hearing on AIG's application scheduled for after the shareholder vote, combined with consolidation of and simultaneous decision on AIG' and Cendant's applications, will prevent AIG from gaining unfair advantage of its improper and presumptuous public statements.

Moreover, in order to permit the matters raised by AIG's Form A application to receive a thorough and complete review by the Department, Cendant seeks: (i) permission to intervene in the process of the Department's review of AIG's Form A application to ensure that a full and fair proceeding may be organized, scheduled and conducted; (ii) consolidation of this proceeding with the proceeding to approve the Cendant Form A application; and (iii) the grant of a hearing on AIG's application to be scheduled after the results of the vote of Amer ican Bankers' shareholders on the proposed AIG/American Bankers merger are known. Only under these conditions can the Department be assured that it is basing

its determination on the fullest and fairest record possible. After all, in passing on the acquisition of a domestic insurer, this Department must act as far more than an "umpire blandly calling balls and strikes." In re Application of American Re-Insurance Co., 47 A.D. 517, 363 N.Y.S.2d 593 (1st Dep't), app. denied, 37 N.Y.705, 374 N.Y.S.2d 1026 (1975).

FACTS

1. THE PARTIES.

Petitioner Cendant Corporation, a Delaware corporation headquartered in Stamford, Connecticut and Parsippany, New Jersey, is a global provider of direct marketing and other services to consumers in the travel, real estate and insurance industries through its many subsidiaries, which include Days Inns of America, Inc., Century 21 Real Estate Corporation, Coldwell Banker Corporation, Ramada Franchise Systems, Inc., Super 8 Motels, Inc. and Resort Condominiums International, Inc. Cendant Corporation is the beneficial owner of 371,200 shares of American Bankers common stock and 99,900 shares of American Bankers preferred stock. Petitioner Season Acquisition Corp., a wholly owned subsidiary of Cendant Corporation, is a New Jersey corporation with its principal offices in Parsippany, New Jersey.

AIG is a Delaware corporation with its principal executive office in New York, New York. AIG is an intermediate holding company engaged primarily

in the general and life insurance businesses in the United States and abroad. AIGF is a Florida corporation and a wholly owned subsidiary of AIG.

Upon information and belief, AIG is controlled by Starr International Company, Inc. (which owns 16.1% of AIG's outstanding common stock) and, in turn, by its Chairman, Maurice R. Greenberg. Mr. Greenberg controls approximately 25% of the outstanding shares of AIG common stock through: (i) individual ownership of 2.3% of AIG's common stock; (ii) control of Starr International Company, Inc., The Starr Foundation, and C.V. Starr & Co. (private companies that own 16.1%, 3.6% and 2.4% of AIG's outstanding common stock, respectively); and (iii) the use of interlocking directorships. Appendix Tab C (AIG's Schedule 14A dated April 4, 1997).

American Bankers is a Florida corporation with its principal place of business in Miami, Florida. Through its insurer subsidiaries, American Bankers is an insurer providing primarily credit-related insurance products in the United States, Canada, Latin America, the Caribbean and the United Kingdom. American Bankers' insurance products are sold primarily through financial institutions and other entities that provide consumer financing as a regular part of their business. Bankers American Life Assurance Company is a New York domiciled life insurance company.

2. THE AIG/AMERICAN BANKERS MERGER AGREEMENT.

On December 22, 1997, AIG and American Bankers announced that they had entered into a merger agreement whereby AIG, through its wholly owned subsidiary AIGF, would acquire 100% of the outstanding capital stock of American Bankers in exchange for a combination of AIG stock and cash valued at $47 per common share and merge American Bankers into AIGF. Appendix Tab D (AIG's press release announcing the proposed transaction). American Bankers' shareholders are scheduled to vote on the proposed merger on March 4 and 6, 1998.

As discussed above, among the arsenal of defensive weapons built into the agreement to insure a sale to AIG is a lock-up option that grants AIG the right to purchase 19.9% of the shares of American Bankers common stock. AIG has admitted in a Form S-4 filed with the SEC that its purchase of these shares "may delay or make more difficult an acquisition of American Bankers by a person other than AIG," "could have the effect of making an acquisition of American Bankers by a third party more costly" and "could also jeopardize the ability of a third party to acquire American Bankers in a transaction accounted for as a pooling of interests." Appendix Tab E (AIG's Form S-4 without attachments).

AIG and American Bankers have estimated the total value of their proposed transaction to be approximately $2.2 billion dollars. The merger agreement's one-sided lock-up option, no-shop provision, non-termination period and

break-up fee are specifically designed to prevent American Bankers from seeking or agreeing to a better deal for its shareholders and policyholders.

3. THE CENDANT OFFER.

Months before American Bankers and AIG announced their merger agreement, Cendant contacted the president of American Bankers hoping to discuss Cendant's serious interest in acquiring American Bankers:

> "Several months ago one of our senior executives had discussed with [American Bankers President and CEO] Mr. Gaston our interest in pursuing a business combination with American Bankers. As recently as December [of 1997], in response to our inquiry as to whether American Bankers was engaged in discussions relating to an acquisition and to our expression of Cendant's strong interest in exploring such a transaction with American Bankers, Mr. Gaston said that American Bankers was not pursuing any acquisition transaction, and suggested that he meet with our se nior executive in early January to discuss the matter further ...." (Emphasis added).

Appendix Tab F (January 27, 1998 Letter of Henry Silverman, Chief Executive Officer, Cendant Corporation, and Walter Forbes, Chairman, Cendant Corporation, to American Bankers' Board of Directors).

American Bankers refused to engage in any discussions with Cendant and, despite the fact that it had assured Cendant otherwise, American Bankers was actively negotiating a merger with AIG. Indeed, American Bankers has not negoti ated with any party other than AIG to seek the best price for the benefit of American

Bankers' shareholders and has bound itself to a lock-up provision intended to render futile any superior merger bids.

On January 27, 1998, Cendant made a competing offer to purchase American Bankers at a price of $58 per share, for a total package worth approximately $2.7 billion dollars - $500 million dollars more than offered by AIG. Appendix Tab G (Cendant's press release); Cendant Form A, Ex. A-1 (Season's tender offer).

4. AIG'S NEW YORK FORM A APPLICATION.

Cendant believes that AIG and AIGF have filed with the Department a Statement Regarding the Acquisition of Control of or Merger with a Domestic Insurer seeking approval to consummate the merger transaction and to exercise the 19.9% "lock-up" option. Because the Department elects to treat Form A materials as confidential, Cendant has not seen the AIG Form A Application, and no notices pertaining to the AIG Form A Application have been made public. Cendant further believes that no Form A Application has been filed by Maurice R. Greenberg, Starr International Company, Inc., or any the other members of the group controlling AIG, i.e., the Starr Foundation, C.V. Starr & Co. and certain officers and directors of AIG.

5. AIG'S OTHER FORM A APPLICATIONS.

New York is not the only state that must approve any acquisition of American Bankers. Regulatory approval is also required in Arizona, Florida, Georgia, South Carolina, Texas as well as Puerto Rico.

In Texas, AIG's Form A application is publicly filed. On its face, AIG's Texas Form A reveals critical gaps in information that are essential to a Form A Application. For example, AIG has failed to disclose required information relating to the control of AIG by Starr International Company, Inc., which owns 16.1% of AIG's voting securities, or its chairman, Maurice R. Greenberg, who, as set forth above, effectively controls approximately 25% of the outstanding shares of AIG common stock by virtue of his control of Starr International Company, Inc., the Starr Foundation, C.V. Starr & Co. and certain officers and directors of AIG. That failure is a violation of Texas law, Texas Ins. Code Art. 21.49-1 Section 5, and suggests that those involved in the attempted acquisition on AIG's behalf have not been sufficiently forthcoming with the Texas insurance regulators.

In Texas, AIG also seeks separate approval of the exercise of its unlawful option to acquire 19.9% of American Bankers' outstanding common stock at a bargain price of $47 per share. Presumably, AIG seeks the same approval in its New York Form A application (a fact that Cendant believes, but cannot state with certainty unless and until it is given access to AIG's New York Form A). As

explained, regulatory approval of the lock-up option would substantially and negatively affect the prospects for a better offer to emerge for American Bankers' shareholders and presents significant public policy issues.

6. THE CENDANT FLORIDA LAWSUIT.

On January 27, 1998, Cendant filed a complaint (which was amended on February 2, 1998) in the United States District Court for the Southern District of Florida against American Bankers, its board of directors, AIG and AIGF alleging that American Bankers and its board, aided and abetted by AIG and AIGF, harmed their shareholders by entering into the unlawful merger agreement. Appendix Tab H (Cendant's Amended Complaint).

In brief, the complaint alleges that the merger agreement between AIG and American Bankers is unlawful and prejudicial to American Bankers' shareholders because its provisions seek to preclude American Bankers from considering any competing acquisition offers (such as the Cendant offer) and selecting the offer that is in the best interests of its shareholders.

The complaint also sets forth numerous misrepresentations and omissions of material fact by AIG. For example, the complaint asserts that AIG has violated the disclosure requirements of the federal securities laws by failing to disclose that it is controlled by Maurice R. Greenberg through his personal holdings in AIG and the holdings of a control group - namely, Starr International Company,

Inc., The Starr Foundation, C.V. Starr & Co. and certain officers and directors of AIG. Further, the complaint alleges that the defendants have issued to American Bankers' shareholders a misleading proxy statement that: (i) creates the impression that AIG already has exercised its lock-up option; (ii) fails adequately to disclose that the Department and other regulators have not yet given the required approvals for this action; (iii) falsely indicates that the merger is expected to close in March 1988; and (iv) misleadingly fails to reveal that projected "expense savings" achieved by the merger will be the result of job cut-backs.

In connection with the Florida lawsuit, Cendant proposed that the parties enter a confidentiality stipulation pursuant to which information obtained in the litigation could be used in the Form A proceedings in New York and American Bankers' other domiciliary states. AIG and American Bankers have balked at this proposal, and have steadfastly refused to allow certain information obtained in the Florida lawsuit to be shared with the state insurance regulators. Appendix Tab I (February 3, 1998 Letter of Seth C. Farber, counsel for American Bankers, refusing to agree to disclosure of confidential information to insurance regulators). Because a number of issues raised in Cendant's lawsuit bear directly on the issues before the Department in its consideration of AIG's Form A application, this refusal raises the inference that AIG, as well as those persons who control AIG, are for some reason anxious to deprive insurance regulators of critical facts related to the merger

agreement, its Form A application and its proposed acquisition of American Bankers.

ARGUMENT

I. THE LAW GOVERNING CONSIDERATION OF FORM A APPLICATIONS.

Under New York law, a proposed acquisition of control of a domestic insurer may not be consummated unless and until it is approved by the Superintendent. N.Y. Insurance Law Section 1506(a)(2) (McKinney 1997). The Superintendent shall not approve the transaction if he determines that disapproval is "reasonably necessary to protect the interests of the people of this state." N.Y. Insurance Law Section 1506(b) (McKinney 1997). The factors to be considered by the Superintendent in making this determination include:

(1) the financial condition of the acquiring person and the insurer;

(2) the trustworthiness of the acquiring person or any of its officers and directors;

(3) a plan for the proper and effective conduct of the insurer's operations;

(4) the source of the funds or assets for the acquisition;

(5) the fairness of any exchange of shares, assets, cash or other consideration for the shares or assets to be received;

(6) whether the effect of the acquisition may be substantially to lessen competition in any line of commerce in insurance or to tend to create a monopoly therein;

(7) whether the acquisition is likely to be hazardous or prejudicial to the insurer's policyholders or shareholders.

N.Y. Insurance Law ss. 1506(b)(1)-(7) (McKinney 1997) (emphasis added).

Here, based upon what Cendant has been able to determine as a result of its review of AIG's public filings and Texas Form A application, but without knowledge of the contents of AIG's Form A application in New York, it appears that, at a minimum, subsections (2), (3), (5), (6) and (7) each independently prevents the approval of AIG's Form A application. The following sections of this Petition demonstrate that: (i) Cendant has standing to intervene and present evidence to the Department in connection with its assessment of these issues; (ii) AIG's Form A application should be consolidated with Cendant's and the Department's decision on both applications should be rendered simultaneously; and (iii) the Department should convene a hearing on AIG's application and hold such a hearing only after the results of the vote of American Bankers' shareholders on the proposed AIG/American Bankers merger are known.

II. CENDANT IS ENTITLED TO INTERVENE IN THE AIG FORM A PROCEEDINGS.

A. AS A PERSON WHOSE INTERESTS WILL BE AFFECTED BY THE DECISION ON AIG'S FORM A APPLICATION, CENDANT IS ENTITLED TO INTERVENE.

Cendant has a right to participate in the AIG Form A proceedings. Under New York law, a person's whose interests are protected by a statute governing administrative action is entitled to intervene in any proceeding under that statute and participate as a party in the proceedings. In re Village of Pleasantville, 37 A.D.2d 848, 848, 326 N.Y.S.2d 38, 39 (2d Dep't 1971). Moreover, any person whose economic interests are threatened by agency action regarding a third party must be permitted to intervene as a party in any agency proceedings. In re Petition of N and Charleston Land Corp., 139 Misc. 2d 634, 638, 528 N.Y.S.2d 794, 797 (Sup. Ct. N.Y. Cty. 1987). Failure to permit intervention in such a circumstance is a denial of due process. Id. A person competing with an applicant for a mutually exclusive approval -- as Cendant respectfully submits is the case here (see, infra Section III) -- is entitled to be heard in its competitor's application proceedings. In re Application of Dairymen's League Co-Operative Ass'n, 282 A.D.2d 69, 74, 121 N.Y.S.2d 857, 863 (3d Dep't 1953). As a shareholder of and competing bidder for American Bankers, Cendant's interests are clearly affected by the AIG Form A proceeding.

1. CENDANT'S STATUS AS A SHAREHOLDER ENTITLES IT TO INTERVENE.

Cendant is unquestionably a person whose interests New York's acquisition of control statute is designed to protect. N.Y. Insurance Law Section 1506(b)(7) provides that, in evaluating a Form A application, the Department must consider whether the proposed acquisition "is likely to be hazardous or prejudicial to the insurer's policyholders or shareholders." (Emphasis added). Moreover, N.Y. Insurance Law Section 1506(b)(5) requires the Department to consider the "fairness of any exchange of shares, assets, cash or other consideration" for the shares of the insurer. As the owner of 371,200 shares of American Bankers common stock and 99,990 shares of American Bankers preferred stock, Cendant's interests are clearly at issue in the AIG Form A proceedings. Like all other American Bankers' shareholders, Cendant has been and continues to be harmed by the merger agreement's unlawful lock-up option and other preemptive weapons. These improper defensive measures seek to foreclose any opportunity for American Bankers' shareholders to realize a better price for their shares than AIG's inferior offer, whether from Cendant's $500 million superior offer or from any other potential bidder.

Accordingly, Cendant should be given the opportunity to demonstrate to the Department that the merger agreement will result in inequities to the shareholders of American Bankers, and for that reason should thus be disapproved under N.Y. Insurance Law Sections 1506(b)(5) and (7).

2. CENDANT'S STATUS AS A RIVAL BIDDER FOR AMERICAN BANKERS ENTITLES IT TO INTERVENE.

Cendant also qualifies as a person whose economic interests will be affected by the Department's disposition of AIG's Form A application because Cendant is a competing bidder for the acquisition of American Bankers. Approval of either the lock up option or AIG's acquisition of American Bankers would immediately and negatively affect Cendant.

AIG seeks approval to exercise its lock up option to purchase 19.9% of American Bankers' outstanding common stock at a substantial discount from the current market price. Exercise of the option is not subject to a vote of American Bankers' shareholders; the only barrier to AIG's acquisition of these shares is regulatory approval. AIG's request to exercise the lock up option is specifically designed to harm Cendant and all shareholders of American Bankers, and, if approved, would indeed immediately and directly do so. By AIG's own admission, the lock up option has no purpose other than to injure Cendant or any other party who seeks to disrupt AIG's sweetheart deal with American Bankers by making a competing bid. Specifically, AIG has indicated that its exercise of the lock up option "may delay or make more difficult an acquisition of American Bankers by a person other than AIG," "could have the effect of making an acquisition of American Bankers by a third party more costly" and "could also jeopardize the ability of a

third party to acquire American Bankers in a transaction accounted for as a pooling of interests." Appendix Tab E (AIG S-4 at 22).

Moreover, apparently unable or unwilling to compete with Cendant's offer in terms of price, AIG has now adopted a strategy of seeking to convince American Bankers' shareholders to vote in favor of its far inferior offer by very publicly attempting to convey the impression that the Department's approval of its Form A is a rubber stamp while Cendant faces supposedly insurmountable hurdles in its own attempt to gain regulatory approval. For example, AIG has declared in its lawsuit filed in federal court in Florida that it "is much further along than [Cendant in] efforts to obtain [regulatory] approval," that it is "likely to secure prompt insurance regulatory approval" and that Cendant will "find it difficult, if not impossible, to secure regulatory approval." Appendix Tab B (AIG complaint at Paragraphs 24, 25). Not only are these statements belied by the facts that Cendant has already been approved by this Department and the Colorado Insurance Department to own and operate domiciliary insurers and has been approved to participate in other highly regulated industries, but they also make clear that AIG considers regulatory approval of its Form A an essential (if not the essential) element of its effort to gain shareholder support for its proposed merger with American Bankers. AIG's public proclamations of the importance of obtaining regulatory approvals only serve to highlight that approval of AIG's Form A would give AIG a substantial advantage in

the marketplace while placing Cendant at a corresponding and immediate disadvantage. Given AIG's conduct to date, it is a virtual certainty that it would attempt to use the Department's approval of its Form A to convince American Bankers' shareholders that its offer for American Bankers is somehow superior to Cendant's. If the Department approves AIG's Form A, Cendant, other American Bankers' shareholders and American Bankers' policyholders will suffer immediate harm.

B. DUE PROCESS REQUIRES THAT CENDANT BE GIVEN A MEANINGFUL OPPORTUNITY TO PARTICIPATE.

Due process considerations require that Cendant be allowed to participate meaningfully in the AIG Form A proceedings by having a full and fair opportunity to be heard. Bell v. Burson, 402 U.S. 535, 541-42 (1971) ("The hearing required by the Due Process Clause must be 'meaningful' [citation omitted] and 'appropriate to the nature of the case.'"); see also In re Petition of N, 139 Misc. 2d at 638, 528 N.Y.S.2d at 797 (intervener must "be given the full rights of a party").

C. CENDANT'S PARTICIPATION IN THE FORM A PROCEEDINGS WILL PROMOTE THE PURPOSES OF N.Y. INSURANCE LAW Section 1506(B).

The statutory design of Form A proceedings clearly evidences a legislative intent that the Department obtain complete and accurate information regarding acquisitions of this nature in order to protect the interests of shareholders, policyholders and persons whose economic interests may be affected by the acquiring party's request for Department approval. See N.Y. Insurance Law Section 1506(b).

Cendant's intervention and participation in AIG's Form A proceeding will ensure that the Department is fully informed about AIG's Form A.

Specifically, Cendant is prepared to present the Department with evidence of the following:

1. QUESTIONS ABOUT THE TRUSTWORTHINESS OF AIG AND ITS CONTROLLING PERSONS PRECLUDE APPROVAL OF AIG'S FORM A.

A. THE MERGER AGREEMENT IS UNLAWFUL

As described above, the merger agreement between AIG and American Bankers is contrary to law because it contains numerous provisions designed to foreclose American Bankers from pursuing any transaction other than the AIG merger, even where an alternative transaction, such as the Cendant offer, would permit American Bankers' shareholders to receive vastly superior value for their shares. By agreeing to these provisions, American Bankers and its directors, aided and abetted by AIG and AIGF, have breached their duties under the law to protect and hold paramount the interests of their shareholders. The lock-up option, which AIG asks the Department to approve, is but one example of the illegality of the merger agreement. Through this option, American Bankers has agreed to permit AIG to purchase 19.9% of American Bankers' shares at a bargain price so as to provide AIG with the opportunity to hamper substantially any attempt by a competing acquirer to enter into a merger agreement with American Bankers, even if the

competing acquirer, as is Cendant, is willing and able to offer American Bankers' shareholders substantially more for their shares than is AIG. The illegality of the merger agreement is a central aspect of Cendant's pending lawsuit in Florida, and Cendant would be prepared to present the Department with all relevant information developed in that lawsuit at a hearing on AIG's Form A application. Cendant's participation is essential because AIG has already demonstrated its unwillingness to share information with the Department by refusing to agree to Cendant's proposal to share such information with state regulators. Appendix Tab I (Letter of Seth Farber).

The fact that AIG would enter into a merger agreement containing such unlawful provisions designed to advance its own interests at the expense of American Bankers' shareholders speaks strongly to the untrustworthiness of AIG.

B. NONE OF AIG'S CONTROLLING PERSONS HAVE FILED A FORM A.

The AIG Form A application filed in Texas includes only AIG as the applicant. Cendant assumes that the Form A applications AIG has filed in American Bankers' other six domiciliary states (and Puerto Rico) similarly list AIG as the sole

applicant. Under the applicable change of control statute, all controlling persons of AIG, as defined in such statute, must seek approval for the acquisition of control.(3)

Cendant believes that AIG's New York Form A applications are also facially incomplete in their failure to disclose the necessary information about all ultimate controlling persons of AIG - including, without limitation, Maurice R. Greenberg and Starr International Company, Inc. In the absence of the requisite disclosure, the Department will be unable to evaluate the trustworthiness of those persons who would acquire American Bankers, as N.Y. Insurance Law ss. 1506(b)(2) requires, or to determine adequately whether it would be "hazardous or prejudicial to [American Bankers'] policyholders or shareholders" to approve AIG's application, as required by N.Y. Insurance Law ss. 1506(b)(7).

Mr. Greenberg should have filed for approval as a controlling person of American Bankers in the AIG Form A filing filed with the Department and should have disclosed his controlling interest in AIG. In addition, because Starr International Company, Inc. by itself holds sufficient stock (16.1%) to trigger the

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(3) N.Y. Insurance Law ss. 1501(a)(2) provides that "[c]ontrol shall be presumed to exist if any person directly or indirectly owns, controls, holds with the power to vote ten percent or more of the voting securities of any other person." As discussed above, Starr International Company, Inc. and, in turn, Greenberg, through his control group (Starr International Company, Inc., The Starr Foundation, Inc., C.V. Starr & Co. and certain AIG officers and directors) hold or control the requisite 10% or greater interest in AIG's voting securities.

presumption of control, it should have filed for approval as a controlling person of American Bankers, particularly in the absence of such a filing by Greenberg.

The conclusion that Starr International Company, Inc. should have been included as an applicant in AIG's Form A filings is further supported by the fact that, in AIG's filing with the Office of Thrift Supervision (the "OTS") seeking approval to become a savings and loan holding company by acquiring the stock of AIG Federal Savings Bank, each of Starr International Company, Inc. and C.V. Starr & Co. also sought OTS approval to become a savings and loan holding company. Appendix Tab K (AIG's OTS Filing without attachments). AIG's filing with the OTS stated that, as of January 31, 1997, Starr International Company, Inc. beneficially owned approximately 16.1% of the outstanding common stock of AIG. The filing further stated that "although [Starr International Company, Inc.] does not believe that it controls AIG, whether acting alone or in concert with others, for purposes of Section 10 of the Home Owners Loan Act, it is filing this application in the event that the OTS does not reach the same conclusion." A similar statement was made with respect to C.V. Starr & Co.'s beneficial ownership of approximately 2.4% of the AIG common stock.

The significance of the relationships of Starr International Company, Inc., The Starr Foundation and C.V. Starr & Co. to AIG, and the importance of this issue to AIG's Form A application, is underscored by the proceedings on AIG's

Texas Form A application. AIG has been requested by the Texas Department of Insurance to provide information about these relationships and to provide financial statements for the Starr entities. In response AIG has revealed to the Texas regulators for the first time that, with two exceptions, all of the officers and directors of Starr International Company, Inc., the Starr Foundation and C.V. Starr & Co. are current officers or directors of AIG. Appendix Tab J (January 30, 1998, Letter of Kenneth V. Harkins, Assistant General Counsel of AIG, to Texas Department of Insurance, at 1). As for the financial statements, AIG has extraordinarily claimed that no financial statements are prepared for Starr International Company, Inc. or the Starr Foundation, and that the most recent financial statement for C.V. Starr & Co. was prepared in 1996. Appendix Tab J (Harkins Letter at 3). This claim was made notwithstanding that based upon the current market capitalization of the value of the AIG stock holdings of Starr International Company, Inc., the Starr Foundation and C.V. Starr & Co. are approximately $13 billion, $3 billion and $2 billion, respectively. This alone speaks volumes about the type of disclosure that has been made to the Department and the type of inquiry which should be made in order to evaluate properly who controls AIG.

As has been demonstrated, the Department cannot adequately determine whether the merger proposed by AIG is in the best interests of American

Bankers' shareholders or policyholders unless each person with a controlling interest in AIG provides sufficient information through a Form A application.(4)

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(4) Cendant is aware that a quarter of a century ago the Department gave some consideration to the then-existing relationship of Starr International Company, Inc., the Starr Foundation and C.V. Starr & Co. to AIG. That relationship was markedly different from the relationship as it exists today. In 1973, Starr International Company, Inc. and the Starr Foundation did not own any shares of AIG common stock. Today, however, Starr International Company, Inc. owns 16.1% of AIG's outstanding common stock (an amount by itself sufficient to trigger the statutory presumption of control) and the Starr Foundation owns 3.6% of AIG's outstanding common stock. Taken together, Starr International, the Starr Foundation and C.V. Starr & Co. today own in excess of 22% of AIG's outstanding common stock. In 1973, this percentage was only 3.6%, through the holdings of C.V. Starr & Co.

AIG was before the Department in 1973 seeking to acquire a controlling interest in American Re-Insurance Company. In that proceeding, the Department initially conducted ex parte discussions with AIG in which it determined that Starr International Company, Inc., the Starr Foundation and C.V. Starr & Co. were not required to seek approval from the Department for the proposed transaction. Appendix Tab L (Opinion and Decision at 203). The Department's Opinion and Decision does not reveal what assurances these entities provided to the Department to obtain this result. The Opinion and Decision does indicate, however, that the result was based, at least in part, on the fact that Starr International Company, Inc. and the Starr Foundation had no direct ownership interest in AIG, but rather only an interest in American International Reinsurance Company, Inc., which in turn held an interest in AIG. Id.

Further, the Department held a hearing on AIG's application at which it received evidence on the control persons issue, and ultimately determined that its consideration of this evidence was the practical equivalent of review of any application that might have been filed by the Starr entities. Id. In reviewing the Department's decision, the Appellate Division of the New York Supreme Court held that the Department should not have made an ex parte determination that the Starr entities were properly not applicants, but that the Department's decision to hold a hearing and receive evidence on this point cured the defect. In re Application of American Re-Insurance Co., 47 A.D.2d at 518, 363 N.Y.S.2d at 593.

C. THERE ARE NUMEROUS OTHER GROUNDS ON WHICH TO QUESTION THE TRUSTWORTHINESS OF AIG AND ITS OFFICERS AND DIRECTORS.

AIG has a history of suspect business practices that call into question the trustworthiness of AIG itself, of its controlling persons and of its officers and directors. Many of these issues are fully described in Cendant's brief in support of its motion to dismiss a lawsuit brought by AIG, and will be aired before the federal district court in Florida at a hearing on that motion. Appendix Tab M (Cendant's memorandum of law in support of its motion to dismiss).

D. AIG AND AMERICAN BANKERS' REFUSAL TO ENTER INTO CENDANT'S PROPOSED CONFIDENTIALITY AGREEMENT IN THE FLORIDA LAWSUIT CALLS AIG'S TRUSTWORTHINESS AND THE MERGER AGREEMENT INTO QUESTION.

AIG and American Bankers turned down Cendant's proposal, in the Florida lawsuit, for a protective order that would allow confidential information obtained in discovery in that matter to be shown to the insurance regulators of American Bankers' domiciliary states. AIG's refusal suggests that AIG and Amer ican Bankers are anxious to prevent inquiry into critical areas and to prevent

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(4) (...Continued)

AIG's current Form A raises the issue of whether Starr International Company, Inc. and/or the Starr entities collectively should have filed their own Form A applications as controlling persons of AIG. Apart from the changed ownership of the AIG controlling entities over the last quarter century, their conduct in the manner in which they have exerted that control is directly related to the AIG application. The Department should, at a minimum, convene a hearing to consider this issue.

disclosure of certain information to insurance regulators. Pursuant to the insurance statute, this reticence suggests that further inquiry is necessary into the trustworthiness of AIG and whether "the acquisition is likely to be hazardous or prejudicial to [American Bankers'] policyholders or shareholders." N.Y. Insurance Law Sections 1506(b)(2) and (7).

2. AIG'S REQUEST FOR APPROVAL TO EXERCISE THE 19.9 % LOCK-UP OPTION RAISES SERIOUS PUBLIC POLICY AND REGULATORY ISSUES.

As more fully described above, the 19.9% lock up option granted by American Bankers to AIG is specifically intended to frustrate any bid for American Bankers other than AIG's, even if such a bid - as is the case with Cendant's - is superior to AIG's offer. This option is designed not only to harm competing bidders for American Bankers, but also American Bankers' own shareholders, who may be deprived of the opportunity to receive maximum value for their shares if AIG is eventually able to frustrate a bidder such as Cendant, who offers these shareholders $500 million more than does AIG. Thus, AIG seeks Departmental approval of exercise of the lock-up option for no other purpose than to use the 19.9% controlling interest acquired through exercise of the option to block other offers for American Bankers, and thus to bring harm to American Bankers shareholders. Under these unique circumstances, the Department should carefully consider whether, as a matter of public and regulatory policy, such a request should be approved.

3. AIG'S ACQUISITION MAY SUBSTANTIALLY DIMINISH COMPETITION FOR INSURANCE IN NEW YORK, TENDING TO CREATE A MONOPOLY.

New York insurance law prohibits the Superintendent from approving acquisition transactions if "[t]he effect of the acquisition may be substantially to lessen competition in any line of commerce in insurance or to tend to create a monopoly therein." N.Y. Insurance Law Section 1506(b)(6). AIG currently controls 16% of the market for inland marine insurance in New York, and American Bankers controls 3.3% of this same market. Appendix Tab N (A.M. Best CD-Rom as of 12/31/96). Clearly, any combination of AIG with American Bankers would result in the combined entity having a dominant share of the inland marine insurance market in New York. Based upon the manner in which AIG addressed competition issues in its Form A filed in Texas, which Cendant assumes to be replicated here, AIG has likely failed adequately to address the competitive impact of its proposed acquisition of American Bankers on the market in New York for inland marine insurance. Thus, AIG has further likely failed to carry its burden of establishing that its proposed acquisition will not have any anti-competitive effect. In contrast, Cendant has no share of the inland marine insurance market in New York, and thus its acquisition of American Bankers would have no effect on competition in this insurance line.

Cendant's intervention would permit it to develop for the Department an adequate record regarding the anticompetitive effects of AIG's proposed acquisition of American Bankers. On such a complex and crucial issue, the fact finding process will be greatly assisted by the presentation of evidence through the adversarial process.

4. AIG'S S-4 AND TEXAS FORM A FILINGS INDICATE THAT AIG PLANS TO MAKE MATERIAL AND POSSIBLY DETRIMENTAL CHANGES IN THE CORPORATE AND MANAGEMENT STRUCTURES OF AMERICAN BANKERS AND ITS SUBSIDIARIES.

In its S-4 filing, AIG stated that it anticipates certain "synergies and expense savings" to flow from its proposed merger with American Bankers. Appendix Tab E (AIG's S-4 at 22). In contrast, in its Texas Form A application, AIG declared that "[t]here are no plans to . . . make any . . . material change in business operations or corporate structure or management." Appendix Tab A (AIG's Texas Form A at 6). Cendant believes that investigation into this contradiction may reveal that AIG intends to implement employee reductions that could ultimately prove to be "hazardous or prejudicial to [American Bankers'] policyholders." N.Y. Insurance Law Section 1506(b)(7). This issue requires further investigation by the Department.

II. THE FORM A PROCEEDINGS SHOULD BE CONSOLIDATED.

The Department has authority to consolidate AIG's Form A application with Cendant's. In re Application of Bayron, 28 A.D.2d 993, 993, 284 N.Y.S.2d 187, 188 (1st Dep't 1967) ("The discretion lodged in the courts to order ... consolidation of actions to expedite justice is possessed by administrative agencies."), appeal denied, 288 N.Y.S.2d 1025 (1968). See also In re Asbestos Indus. of America, Inc., 224 A.D.2d 414, 414-15, 637 N.Y.S.2d 750, 751 (2d Dep't 1996) (administrative agencies have discretion to consolidate applications); In re Reisner, 142 A.D.2d 22, 30, 535 N.Y.S.2d 197, 202 (3d Dep't 1988) (same). The Department, therefore, may order consolidation where there is any "common question of law or fact" raised by competing applications. N.Y. CPLR ss. 602(a).

The AIG and Cendant Form A applications raise numerous common factual and legal issues. By way of example, and without limitation, under N.Y. Insurance Law Section 1506(b) the Department may consider in reviewing both the AIG and Cendant Form A applications, among other things:

- American Bankers' financial condition, and the effect of the proposed acquisitions thereon;
- whether the acquisitions are likely to be hazardous or prejudicial to American Bankers' policyholders or shareholders;
- the fairness of any exchange of shares, assets, cash or other consideration offered for American Bankers;

- whether the effect of the proposed acquisitions would substantially lessen competition in any line of commerce in insurance in New York; and

- whether the proposed acquisitions provide plans for the proper and effective conduct of American Bankers' operations.

It would be inappropriate and an inefficient use of the Department's resources to perform each of these analyses twice, in separate proceedings, particularly since consideration of one application before the other would have the effect of favoring one applicant over another. See In re Massey, 135 A.D.2d 1054, 1056, 522 N.Y.S.2d 989, 990-91 (3d Dep't 1987) (consolidation of hearings appropriate to avoid duplication of effort); In re Reisner, 142 A.D.2d at 30, 535 N.Y.S.2d at 202.

If the AIG Form A application is heard or approved without Cendant's participation and simultaneous consideration of Cendant's Form A application, AIG will receive an immediate and unfair advantage in the marketplace, as discussed more fully above. Even if only the lock-up provision is approved, AIG will have obtained voting power sufficient to exert great influence over American Bankers' destiny. By hearing or approving either AIG's Form A application or its request to exercise the lock-up option, the Department, in effect, will have placed itself in the position of having recommended AIG over Cendant as the acquirer of American Bankers.

In Ashbacker Radio Corp. v. Federal Communications Comm'n., 326 U.S. 327, 333 (1945), the United States Supreme Court recognized that "where two bona fide applications are mutually exclusive the grant of one without a hearing to both" violates the due process rights of the applicant whose application was not considered. Id. at 329 (holding that FCC erred in granting a radio broadcast license without simultaneously considering competing application for a license to broadcast on same frequency); accord Application of Dairymen's League Co-Operative Ass'n, 282 A.D.2d at 74, 121 N.Y.S.2d at 863 (due process entitles competitor to be heard in other's application for mutually exclusive license); Bio-Medical Applications of Clearwater, Inc. v. Department of Health and Rehab. Servs., 370 So. 2d 19, 23 (Fla. Ct. App. 1979) (holding that department erred in refusing to consolidate competing applications for approval of new medical facilities in same health planning area: The Ashbacker doctrine "constitutes a fundamental doctrine of fair play which adminis trative agencies must respect and courts must be ever alert to enforce"); Bostick v. Sadler, 55 Cal. Rptr. 322, 325-26 (Ct. App. 1966) (holding that savings and loan commission had not erred in consolidating proceedings on applications for approval of bank branch corporate articles where commission policy limited number of branches in region to only one); Bay State Harness Horse Racing and Breeding Assoc., Inc. v. State Racing Comm'n., 175 N.E.2d 244, 250 (Mass. 1961) (applying Ashbacker to racing applications where state law limited total number of racing days

that could be licensed: "[When] two or more persons seek mutually exclusive privileges or licenses, each applicant has an interest entitling it to hearing and review by some method which effectively compares the applicants in the light of applicable aspects of the public interest.").

The due process and fairness considerations present in the Ashbacker line of cases apply with special force here. See Bio-Medical, 370 So. 2d at 23 (rejecting argument that Ashbacker doctrine is inapplicable if two licenses could, theoretically, be granted: "Ashbacker should apply whenever an applicant is able to show that the granting of authority to some other applicant will substantially prejudice his application"). After all, there is only one American Bankers, and AIG and Cendant cannot both acquire it. Indeed, approving the lock-up option alone would be tantamount to granting AIG an exclusive license to acquire American Bankers, because AIG would have significant power to attempt to block any rival merger bid. Thus, any advantage given to AIG results in corresponding disadvantage to Cendant.

Considerations of fairness require that Cendant's and AIG's Form A applications be heard and decided simultaneously because otherwise, the company with the first Form A hearing or approval will have an unfair advantage in closing a transaction with American Bankers and any entity still awaiting hearing or approval will be significantly prejudiced. The Department should not engage in action that

could have such a decisive impact on the marketplace when it could easily avoid that possibility by consolidating the two Form A proceedings.

III. THE DEPARTMENT SHOULD SCHEDULE A HEARING ON AIG'S FORM A APPLICATION, AND HOLD THE HEARING ONLY AFTER THE RESULTS OF THE SHAREHOLDER VOTE ARE KNOWN

A. NEW YORK'S INSURANCE LAW AND DUE PROCESS REQUIRE A HEARING.

As described more fully above, AIG's application raises serious questions as to whether it must be disapproved under N.Y. Insurance Law Section 1506(b). Under these circumstances, the Department should hold a hearing on AIG's Form A to permit full examination of these issues. N.Y. Insurance Law Section 1506(b) ("The superintendent shall disapprove such application if he determines, after notice and an opportunity to be heard, that such action is reasonably necessary to protect the interests of the people of this state.") Moreover, as a shareholder of and competing acquirer for American Bankers, Cendant has the right to participate in this hearing as an intervener (see supra Section I) and pursuant to N.Y. Insurance Law Section 304(d), which provides:

> Every person affected shall be allowed to be present during the giving of all the testimony, and shall be allowed a reasonable opportunity to inspect all adverse documentary proof, to examine witnesses, and to present proof in support of his interest.

As at least one commentator has noted, a hearing is particularly appropriate in a situation such as the one presented by AIG's Form A. See, Bender, New York Insurance Law at Section 9.02[2][b] ("a hearing is not usually held except in contested acquisitions"). See also Senise v. Corcoran, 146 Misc. 2d 598, 599-600, 552 N.Y.S.2d 483, 484 (Sup. Ct. N.Y. Cty. 1989) (Superintendent has broad powers to implement legislative policy, including by holding hearings).

Further, like any other shareholder of American Bankers, Cendant has a substantial interest in the outcome of these proceedings. That interest is heightened by Cendant's status as a competing bidder for American Bankers. Thus, wholly apart from the statutory grounds for a hearing, due process requires a hearing under these conditions. See, e.g., Hecht v. Monaghan, 307 N.Y. 461 (1957) (where the exercise of statutory power will affect rights, courts will imply right to a hearing even if statute is silent on issue); Application of Dairymen's League Co-Operative Ass'n, 282 A.D.2d at 74, 121 N.Y.S.2d at 863 (due process entitles competitor to be heard in other's application for mutually exclusive license).

B. THE HEARING SHOULD BE SCHEDULED AFTER THE SHAREHOLDER VOTE.

A vote of American Bankers' shareholders on the proposed AIG/American Bankers merger is presently scheduled to be held on March 4 and 6, 1998, for preferred and common shareholders, respectively. The Department should await the results of this vote before scheduling a hearing on AIG's Form A applica-

tion. Shareholder disapproval of the AIG/American Bankers merger - a result that is not unlikely given that AIG offers American Bankers' shareholders $500 million less than does Cendant - would effectively moot AIG's request for approval to acquire American Bankers. In such an event, it would be a waste of the Depart ment's resources, as well as those of all who would participate in a hearing on AIG's Form A application, to have conducted a hearing. On the other hand, there exist no compelling reasons to conduct a hearing before the results of the shareholder vote are known. Receipt of regulatory approval by AIG is not required before American Bankers' shareholders vote on the merger proposal. Moreover, the absence of regulatory approval at the time of the shareholder vote will not have any impact upon AIG's ultimate success or failure in its attempt to acquire American Bankers. Shareholder and regulatory approval are both conditions of the merger, each entirely distinct from the other. If the AIG merger is approved by American Bankers' shareholders, AIG will have satisfied one condition to the merger. The Department can then conduct a hearing on AIG's Form A application to determine if approval should be granted and a further condition of the merger be satisfied. If the AIG merger does not receive shareholder approval, however, the need for a hearing by the Department will be obviated.

Where there is a question regarding the legality or propriety of a proposed merger that is subject to a shareholder vote, deferral of any adjudicatory

hearing on these issues pending the outcome of the shareholder vote is appropriate to avoid the conduct of an unnecessary hearing. See, e.g., D&N Financial Corp. v. RCM Partners Ltd. Partnership, 735 F. Supp. 1242, 1253 (D. Del. 1990) (court permitted vote based upon allegedly misleading proxies to proceed where it could set aside vote if necessary and proxies were found misleading); Equity Group Holdings v. DMG, Inc., 576 F. Supp. 1197, 1205 (S.D. Fla. 1983) (where shareholder vote could result in rejection of challenged merger and thus moot plaintiff's claim for relief, and where relief would be available to plaintiff in the event of shareholder approval, it was appropriate to allow vote to proceed); FMC Corp. v. R.P. Scherer Corp., 545 F. Supp. 318, 322 (D. Del. 1982) (court denied request for injunction against vote based upon allegedly misleading proxies where it could, set aside shareholder vote if it determined, after vote, that proxy materials were misleading); Wetter v. Ceasars World, Inc., 541 F. Supp. 68, 74 (D.N.J. 1982) (same); Bertoglio v. Texas Int'l Co., 472 F. Supp. 1017, 1021-22 (D. Del. 1979) (same); Clairedale Enterprises, Inc. v. C.I. Realty Investors, 423 F. Supp. 261, 264 (S.D.N.Y. 1976) (same).

Further, any action on AIG's Form A application taken in advance of action on Cendant's own Form A application and without the participation of Cendant will give AIG a substantial and unjust advantage over Cendant in their pursuit of a merger with American Bankers. Because AIG appears unable or

unwilling to compete with Cendant in terms of the price it has offered to pay for American Bankers, AIG has sought other methods to secure the necessary vote of American Bankers' shareholders. As described above, AIG has attempted to give the impression to shareholders that regulatory approval of AIG's application is imminent, but approval of Cendant's application is only a possibility at some future time. In this light, a hearing on AIG's Form A application scheduled before a shareholder vote would provide AIG with yet another opportunity to make such unfair allegations.

RELIEF REQUESTED

For the reasons discussed above the Department should issue an order allowing Cendant to intervene as a party in the Department's administrative proceedings in connection with the proposed acquisition of American Bankers by AIG. The Department also should consolidate the AIG Form A proceeding with the Cendant Form A proceeding, both of which involve the acquisition of American Bankers. Additionally, the Department should schedule a hearing on AIG's Form A application to be held after the results of the vote of American Bankers' shareholders on the proposed AIG/American Bankers merger are known.

February 17, 1998.

Respectfully submitted,

/s/ Robert J. Sullivan

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

AMERICAN INTERNATIONAL GROUP, INC.,
and AIGF, INC.,

Plaintiffs,

v.

CASE NO. 98-0247-CIV-GRAHAM
MAGISTRATE JUDGE DUBE

CENDANT CORPORATION and
SEASON ACQUISITION CORP.,

Defendants.
- ----------/

DEFENDANTS' MOTION TO DISMISS
PLAINTIFFS' AMENDED COMPLAINT

Defendants Cendant Corporation and Season Acquisition Corp., hereby move this Court pursuant to Rules 9(b), 12(b)(6) and 13(a) of the Federal Rules of Civil Procedure and the Private Securities Litigation Reform Act of 1995, to dismiss plaintiffs' Amended Complaint filed in the above-captioned action. The grounds for the relief requested are set forth in the defendants' memorandum of law filed simultaneously with this motion.

Dated: February 18, 1998
Miami, Florida

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Dismiss has been served this 18TH day of FEBRUARY, 1998, upon the following:

VIA HAND-DELIVERY TO:
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/s/ Robert T. Wright, Jr.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

AMERICAN INTERNATIONAL GROUP, INC.,
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CASE NO. 98-0247-CIV-GRAHAM
MAGISTRATE JUDGE DUBE

CENDANT CORPORATION, and SEASON
ACQUISITION CORP.,

Defendants.

- ----------/

DEFENDANTS' MEMORANDUM OF LAW IN SUPPORT OF
THEIR MOTION TO DISMISS PLAINTIFFS' AMENDED COMPLAINT

PRELIMINARY STATEMENT

AIG's Amended complaint (the "Amended Complaint"), is nothing more than a rehash of its original complaint. It suffers from the same fatal defects, including among many others, the fact that it should be dismissed because it is a compulsory counterclaim to Cendant's complaint. See Cendant Corp., et al. v. American Bankers Ins. Group, Inc., C.A. No. 98-0159 (S.D. Fla.) (Civ-Moore).

The only new claim that can be found among AIG's rambling pages of personal attacks on Mr. Silverman is that Cendant is allegedly required to disclose that it cannot acquire or vote proxies representing 10 percent or more of American Bankers' voting securities without prior regulatory approval in five of the six states in which American Bankers' insurance subsidiaries are domiciled (the "Disclosure of Control" claim). This utterly meritless claim is a

desperate, eleventh-hour concoction by AIG's lawyers in response to Cendant's meritorious motion to dismiss.

AIG's Disclosure of Control claim is based on a nonsensical reading of the pertinent statutes -- that by soliciting revocable proxies in opposition to the AIG merger proposal, Cendant is acquiring "control" over American Bankers. The definition of "control" in all of those statutes is simply not triggered by Cendant's solicitation of proxies in opposition to AIG's proposed merger. "Control" in these jurisdictions means acquisition of the power to direct the management and policies of the target company. However, as Cendant's proxy materials make clear, Cendant's solicitation of proxies is not a solicitation of control of American Bankers. It is not a request for the shareholders of American Bankers to tender their shares to Cendant. It is not a proposal to elect any directors to the American Bankers' board of directors. It is not a solicitation in favor of its own acquisition proposal. It is merely a solicitation of revocable proxies against AIG's proposed merger. Cendant's solicitation can result in nothing more than maintaining the status quo.1 Thus, Cendant's holding or voting such proxies cannot be an attempt to direct the management or policies of American Bankers. Moreover, the regulatory approval requirement is not triggered by Cendant's holding or voting the limited purpose, revocable proxies as Cendant is neither acquiring nor attempting to acquire control. Rather it is merely attempting to preserve the status quo.

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1 As Cendant's proxy statement states in boldface capital letters:

> EVEN IF YOU HAVE ALREADY SENT A PROXY TO THE BOARD OF DIRECTORS OF AMERICAN BANKERS, YOU HAVE EVERY RIGHT TO CHANGE YOUR VOTE.

(Proxy Statement at 6)

Moreover, if AIG's reading of this statute were correct -- which it is not -- no one could ever solicit proxies against any management proposal of a company regulated by these statutes, without first obtaining regulatory approval. This would be an absurd result.

In any event, Cendant has filed AIG's Amended Complaint as an amendment to its Schedule 14D-1. Accordingly, the Disclosure of Control claim is moot and should be dismissed.

Aside from AIG's eleventh-hour Disclosure of Control claim, the only new materials in the Amended Complaint are some embellishments of AIG's claim that Cendant must file a registration statement pursuant to Section 5 of the Securities Act of 1933 (the "1933 Act") and a few more scurrilous attacks on Mr. Silverman. As discussed in Cendant's Memorandum Of Law In Support Of Their Motion To Dismiss filed on February 13, 1998 in response to AIG's original complaint (the "Memorandum in Support of Motion to Dismiss"), AIG does not even have standing raise the 1933 Act claim.2 Even if AIG had standing, the authorities cited by Cendant in its Memorandum in Support of Motion to Dismiss clearly show that Cendant is not required to file a registration statement at this juncture.

As for the new personal attacks on Mr. Silverman, they are obviously a continuation of AIG's public relations campaign designed to create the impression that there is a "regulatory gap" between the competing proposals. These assertions are not actionable as a matter of law. Certainly Cendant is not required to disclose AIG's erroneous and pejorative statements about Mr. Silverman. Nor is Cendant required to disclose AIG's one-sided

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2 For the Court's convenience, we attach hereto as Exhibit A, a copy of Cendant's and Season Acquisition Corp.'s Memorandum Of Law In Support Of Their Motion To Dismiss filed on February 13, 1998.

predictions about the likely course of the regulatory process, which predictions are immaterial as a matter of law. Accordingly, the Amended Complaint should be dismissed in its entirety.

STATEMENT OF FACTS

OVERVIEW OF AIG'S NEW DISCLOSURE OF CONTROL CLAIM.

The only new claim in AIG's Amended Complaint is AIG's claim that Cendant failed to disclose that Cendant's solicitation of proxies from American Bankers' shareholders will violate state insurance laws if Cendant receives proxies that exceed 10 percent of American Bankers outstanding shares. (Am. Comp. P. 4) In this regard, AIG alleges that:

- "Cendant cannot hold (let alone vote) proxies representing 10% or more of American Bankers' voting securities because holding such proxies is presumed to be acquisition of 'control' of American Bankers' insurance subsidiaries and requires regulatory approval prior to acquisition of the proxies." (Am. Comp. P. 4)

- "For example, in Georgia - a state where Cendant must secure regulatory approval for its proposed acquisition of control of American Bankers - Section 33-13- 1(3) of the Georgia Insurance Code presumes that 'control' exists if a person holds proxies representing 10% or more of the voting securities of any other person." (Id.)

- "Arizona, South Carolina and Texas have similar statutory prohibitions on holding proxies for 10% or more of an insurance company's shares and the New York Department of Insurance has interpreted the New York Insurance Code in the same way." (Id.)

As shown below, the fatal defect in AIG's Disclosure of Control claim is that Cendant's activities do not even implicate the definition of "control' in any of these statutes. As the Arizona statute states, for example, "control" means "the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person...." Ariz. Rev. Stat. 20-481(3) (1996) AIG admits in its own brief, that "[t]he reason that these statutes prohibit the acquisition of control of voting power without prior approval is that with the power to vote

shares an acquirer can choose management and direct the business affairs of an insurance company or insurance holding company before the state has had the opportunity to review their fitness to do so." (AIG Mem. of Law, dated Feb. 16, 1998) (hereinafter "AIG Mem.") (emphasis added).3 Cendant is not soliciting proxies in favor of its own acquisition proposal. Cendant is not soliciting in favor of a competing slate of directors. It is not a request for the tender of American Bankers shares. Rather, as Cendant's proxy materials make clear, Cendant is merely soliciting proxies against AIG's proposed merger. For example, Cendant's Schedule 14A states in boldface type:

> THIS PROXY STATEMENT IS NEITHER A REQUEST FOR THE TENDER OF COMMON SHARES NOR AN OFFER WITH RESPECT THERETO. SUCH AN OFFER WITH RESPECT TO COMMON SHARES IS MADE ONLY THROUGH THE CENDANT OFFER TO PURCHASE.

(Proxy Statement at 6) A review of the actual proxy card attached to Cendant's Schedule 14A makes clear that the only matter being voted upon is the AIG merger proposal. (Exhibit B) The proxy card itself states that it "will be voted in accordance with the specifications made," indicating that Cendant must vote as directed. Further, the limited purpose of the proxy is evidenced by Cendant's February 12, 1998 letter to American Bankers shareholders also states in boldface type that:

> THIS PROXY STATEMENT RELATES SOLELY TO THE SOLICITATION OF PROXIES WITH RESPECT TO THE PROPOSED AIG MERGER AND IS NEITHER A

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3 AIG obviously realizes this defect in its argument. Given that it is clear that Cendant is merely soliciting proxies in opposition to AIG's merger proposal, and not in favor of its own acquisition proposal, AIG suggests that this distinction is irrelevant since only Cendant's proposal will remain if AIG's proposal is defeated. (Am. Comp. P. 6) However, as AIG is fully aware, Cendant's acquisition proposal cannot be consummated until all necessary regulatory approvals are obtained.

REQUEST FOR THE TENDER OF AMERICAN BANKERS COMMON SHARES NOR AN OFFER TO SELL SHARES OF CENDANT COMMON STOCK. THE CENDANT OFFER IS BEING MADE ONLY BY MEANS OF AN OFFER TO PURCHASE AND RELATED LETTER OF TRANSMITTAL, WHICH HAVE BEEN SEPARATELY MAILED TO AMERICAN BANKERS SHAREHOLDERS.4

As shown below, AIG's Disclosure of Control claim is meritless and ought to be dismissed along with the rest of its claims.

ARGUMENT

IV. THE AMENDED COMPLAINT CONTINUES TO STATE COMPULSORY COUNTERCLAIMS AND SHOULD BE DISMISSED.

Like the original complaint, the Amended Complaint should be dismissed because it violates Federal Rule of Civil Procedure 13(a). The only new claim AIG attempts to assert here, the Disclosure of Control claim, arises from the same transactions as the claims alleged by Cendant in its earlier-filed action against American Bankers, its directors and AIG (Cendant Corp. et al. v. American Bankers Ins. Group, Inc. et al., Case No. 98-0159-Civ-Moore). Accordingly, they are therefore "compulsory counterclaims" within the meaning of Rule 13(a). See Tullos v. Parks, 915 F.2d 1192, 1196 (8th Cir. 1990) (counterclaims were compulsory where

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4 As disclosed in Cendant's Schedule 14D-1:

> Generally, a person seeking to acquire voting securities, such as Common Shares, in an amount that would result in such person controlling directly or indirectly, a domestic insurer must, together with any person ultimately controlling such person, file a Form A with the relevant Insurance Commission and send a copy of such Form A to the domestic insurer. [Cendant and Season Acquisition Corp.] made form A filings with the relevant Insurance Commissions and sent copies thereof to the relevant domestic insurers on the date of this Offer to Purchase.

Offer to Purchase at 39. Thus, Cendant has made all the requisite filings and has fully disclosed that it has done so. Nothing more is required.

"all the claims asserted by both sides in this case are part of the fight between the parties for control" of bank). Compulsory counterclaims which are improperly brought as a separate action must be dismissed. Adam v. Jacobs, 950 F.2d 89 (2d Cir. 1991) (citing 6 C. Wright, A. Miller & M. Kane, Federal Practice & Procedure ss. 1418, at 142-43 (2d ed. 1990)).

V. AIG'S NEW DISCLOSURE OF CONTROL CLAIM, LIKE ITS OTHER REGULATORY CLAIMS, SHOULD BE DISMISSED.

A. THE DISCLOSURE OF CONTROL CLAIM IS MOOT

Like the original Complaint which failed to state a claim for relief based on Mr. Silverman's statements about regulatory approval, the Amended Complaint's new Disclosure of Control claim fares no better. Cendant has filed the Amended Complaint as an exhibit to an amendment to its Schedule 14D-1. As a result, insofar as the Amended Complaint is premised on purported misstatements concerning a technical administrative matter such as insurance regulatory approval, such disclosure renders the Amended Complaint moot and warrants dismissal. Avnet, Inc. v. Scope Indus., 499 F. Supp. 1121, 1123-24 (S.D.N.Y. 1980).

In Avnet, the plaintiff alleged that the defendants had made false and misleading disclosures in their Schedule 13D because the defendants "failed to disclose that [defendant] Scope [Industries] was an unregistered investment company in violation of the Investment Company Act of 1940." Id. at 1122. The defendants, who believed that Scope was not an investment company, responded to the plaintiff's complaint by filing an amended Schedule 13D that summarized and denied the allegations of Avnet's complaint. Id. at 1124. The United States District Court for the Southern District of New York held that the defendants' amended Schedule 13D was "sufficient to cure any alleged omissions" concerning Scope's status an investment

company. Id. The court explained that "the purpose of the disclosure provisions of the securities laws is to see to it that the insider, management official, proxy solicitor, tender offeror or substantial shareholder, as the case may be, discloses to the investor the facts as truly believed by the disclosure." Id. at 1125 (emphasis added). Accordingly, the court dismissed the plaintiff's claim relating to the defendants' alleged failure to disclose Scope's status as an investment company. Id. at 1126. See also Union Pacific Resources Group, Inc. v. Pennzoil Co., C.A. No. 4:97-CV-509-Y (N.D. Tex., Sept. 10, 1997) (Order) ("because the September 8th amendment to Plaintiff's schedule 14D-1 contains the disclosures Pennzoil sought by way of injunction to require Plaintiffs to make, it is not necessary for the Court to make any finding that Plaintiff did, or did not, violate the Act nor whether the disclosures which were made were required").

B. ASIDE FROM BEING MOOT, THE DISCLOSURE OF CONTROL CLAIM IS INCORRECT AS A MATTER OF LAW AND, THEREFORE, SHOULD BE DISMISSED.

AIG contends that under the law of five states (Arizona, Georgia, New York, South Carolina and Texas), the holding by Cendant of proxies to vote more than 10% of American Bankers outstanding shares on the AIG merger proposal would itself constitute a "change of control" so as to require prior regulatory approval. In support of this strange proposition, AIG points to the portions of the state statutes which provide that "control" will be "presumed" if a person holds proxies representing 10% or more of the voting securities of any other person.

To begin with, AIG's theory is absurd. If it were correct, no one could ever solicit proxies in respect of a vote of the stockholders of an insurance company or insurance holding company without first obtaining regulatory approval for the solicitation itself, wholly apart from regulatory approval of the underlying transaction. AIG's theory would eviscerate the ability of

stockholders to work together in opposition to any management proposal, thereby providing insurance companies with an impenetrable takeover defense.

Likewise, if the solicitation of proxies to maintain current management in power were found to constitute actions that "direct or cause the direction of the direction of the management and policies" of an insurance company or insurance holding company, then no vote on the election of directors of an insurance company or insurance holding company, or any number of other corporate initiatives could ever be held without invoking the "control" definition, together with the requirement that a Form A be filed and approved prior to every election of directors.

AIG's theory is absurd for yet another reason. American Bankers' own proxy solicitation materials solicit proxies to be given to R. Kirk Landon, Gerald N. Gaston and Arthur W. Heggen, who will then have the power to vote those shares in favor of the AIG merger proposal. Messrs. Landon, Gaston and Heggen seek to hold "proxies representing 10% or more of the voting securities" of American Bankers, yet have not received regulatory approval to hold such proxies. Thus, if AIG's interpretation of the statutory presumption were correct, American Bankers would be guilty of precisely the same purported disclosure violation.5

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5 While the pertinent Texas statute exempts from the presumption "a corporate officer or director" who holds proxies, Tex. Ins. Art. 21-49-1 ss. 2(d), we do not believe that exemption applies in this instance as Messrs. Landon, Gaston and Heggen are obviously acting as agents for AIG. This is evident from the voting agreement Landon and Gaston have entered into with AIG. See Schedule 14D-1 at 4. Pursuant to this agreement, "Messrs. Landon and Gaston have agreed (i) to vote the approximately 8.2 % of the outstanding Company Shares beneficially owned by them (A) in favor of adopting the AIG Merger Agreement and approving the Proposed AIG Merger and (B) against any actions or proposal that would compete with or could serve to materially interfere with, delay, discourage, adversely affect or inhibit the timely consummation of the Proposed

(continued...)

Of course, AIG's theory is not correct. As stated above, the definition of "control" is not even implicated because Cendant's solicitation of revocable proxies on AIG's merger proposal will not result in Cendant obtaining the power to direct the management or policies of American Bankers.6

Even assuming, arguendo, that a statutory "presumption" of control may arise as a result of holding revocable proxies for 10% or more, that presumption is rebutted by the face of Cendant's proxy materials which make clear that revocable proxies are being solicited in opposition to AIG's merger proposal. Insurance regulators in the pertinent states will look to the statutory definition of "control" which includes not only the "presumption" language but also the language pertaining to possession of the power to direct the management and policies of a person:

South Carolina: The term "control" ... means the possession, direct or indirect, of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, ... S.C. Code Ann.ss. 38-21-10(2) (1997).

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5 (...continued)
AIG Merger, and (ii) upon request, to grant AIG an irrevocable proxy with respect to such Common Shares." (Id.)

6 Even if the definition of "control" were applicable, a Form A filing would nonetheless not be required. The critical focus in determining whether a Form A filing is required is not properly based on an isolated invocation if the presumption of control language. Rather, it is properly based upon whether or not, as the language of the statutes indicate, after consummation of triggering action (which action does not refer to the holding or voting of a proxy, but rather to the acquisition of "any voting security"), a party would have "control as statutorily defined. Thus, even if Cendant is successful in obtaining a sufficient number of proxies in opposition to the Proposed AIG Merger, the voting of such proxies by Cendant would not result in a change of control of American Bankers, but rather, the preservation of the status quo. Thus, Cendant would not be required to file a Form A statement and obtain regulatory approval prior to its solicitation of proxies

New York: "Control" ... means the possession direct or indirect of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract ... or otherwise; ... N.Y. Ins. Law ss. 1501(a)(2) (McKinney 1997).

Georgia: "Control" ... means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person whether through the ownership of voting securities by contract ... or otherwise, ... Ga. Code Ann.. ss. 33-13-1(3) (1997).

Arizona: "Control" ... means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract ... or otherwise, ... Ariz. Rev. Stat.ss. 20-481.3 (1996) (emphasis added).

Texas: The term "control" ... means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract ..., or otherwise, ... Tex. Ins. Art. 21-49-1ss. 2(d) (emphasis added) (1997).

Under these definitions, as a matter of law, neither Cendant's proxy solicitation nor the administrative act of voting such proxies will result in a change of control of American Bankers. In no way will the proxies granted to Cendant give it "the power to direct or cause the direction of the management and policies" of American Bankers. To the contrary, Cendant's Proxy Statement makes clear that it solicits revocable proxies only for the limited purpose of voting for or against the AIG Merger Proposal -- not in favor of any transaction with Cendant.7

A mere revocable proxy to vote on the AIG merger proposal, without more, does not confer any control over the stock or voting rights associated with the stock other than the sole issue of the merger. AIG fails to distinguish between the right or attempt to acquire a voting security versus the right or attempt to acquire a revocable voting proxy on a singular issue. See

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7 Thus, there is not even a hypothetical possibility that Cendant, as a result of its solicitation proxies, would be in a position to direct the management and policies of American Bankers.

Johnson v. Spartanburg County Fair Ass'n, 210 S.C. 56, 41 S.E.2d 599 (1947). In distinguishing between proxy and a voting trust, the court stated:

> The usual proxy merely establishes a relation of principal and agent terminable by the principal at will either through revocation or through sale of his stock. The voting trust agreement vests in the trustees an interest in the stock which the original owner obviously is unable to nullify by any sale of the stock and which he cannot otherwise cancel except through an attempt breach of contract. The holder of a proxy has no control over the stock itself, while the voting trustees have the possession of the stock as well as the legal title to it. The proxy creates a relation of a temporary character under the restrictive statutory authority; the voting trust is created without the need of statutory license, and confers, not a revocable authority upon an agent, but a qualified title upon a transferee of property.'

Johnson, 210 S.C. at 71, 41 S.E. at 605-06 (emphasis added)

Indeed, receipt of proxies by Cendant will not give it any "control" at all, since it will have no discretion to do other than vote shares in accordance with the instructions of the American Bankers stockholders who grant it proxies. Under the Texas statute, for instance, it has been held that "[c]ontrol in fact is predicated on a finding of controlling influence and a need for protection of the insurer's policyholders and shareholders and the public." American General Corp. v. NLT Corp., 1982 WL 1332, at *20 (S.D. Tex. July 1, 1982). Since Cendant can exercise no "controlling influence" and American Bankers shareholders hardly need to be protected from Cendant voting shares as the shareholders themselves direct, Cendant's proxy solicitation will not effect a change of control.

Thus, even assuming that there is a statutory presumption of control arising from the holding of proxies, it must be deemed rebutted by the face of Cendant's proxy materials. AIG's claim fails as a matter of law.

C. THE NEW DISCLOSURE OF CONTROL CLAIM FAILS TO STATE A CLAIM FOR RELIEF

AIG's Disclosure of Control claim should be dismissed for the additional reason that Cendant is not required to disclose AIG's contrary opinions and beliefs regarding the regulatory approval process. See Exhibit A at 17-24.

VI. PLAINTIFFS HAVE NO STANDING TO ALLEGE A VIOLATION OF SECTION 5 OF THE EXCHANGE ACT.

Plaintiffs continue to allege that Defendants violated Section 5 of the Securities Act of 1933, 15 U.S.C. ss.ss. 77c(a) and (c), by making statements regarding the superiority of the Cendant bid to the AIG Merger Proposal prior to the filing of a registration statement covering the Cendant stock that would be offered to American Bankers shareholders in a second step merger. This point was briefed on pages 24 through 26 of Cendant's Memorandum in Support of Motion to Dismiss. Cendant respectfully refers the Court to those pages.

CONCLUSION

For the foregoing reasons, the defendants respectfully request that their Motion to Dismiss be granted.

Dated: February 18, 1998.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Dismiss has been served this 18TH day of FEBRUARY, 1998, upon the following:

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STATE OF FLORIDA
DEPARTMENT OF INSURANCE

In re: Application for Approval of the Acquisition of a Controlling Interest (Form D14-918) filed by CENDANT CORPORATION and SEASON ACQUISITION CORP. Relating to American Bankers Insurance Company of Florida, American Bankers Life Assurance Company of Florida and Voyager Service Warranties, Inc., Domestic Insurers

_____/

SEASON'S RESPONSE TO AMERICAN BANKERS' REQUEST FOR A HEARING

Cendant Corporation and Season Acquisition Corp., its wholly-owned subsidiary (collectively, "Season"), hereby submit this memorandum in response to the request by American Bankers Insurance Company of Florida and American Bankers Life Assurance Company of Florida (collectively, "American Bankers") for a hearing, pursuant to Section 628.461(5)(a), Florida Statutes, on Season's Form A Application. American Bankers' request is untimely, and therefore American Bankers is not entitled to a hearing as a matter of right. Nevertheless, Season has no objection to a hearing on its Form A Application that is consolidated with the hearing on AIG's Form A Application to which Season is entitled. As a party whose substan tial interests will be affected by the Department's decision on AIG's Form A Applica tion, Season has a statutory right to request a hearing on that application (as it has done) and to participate as a party in that hearing.

AMERICAN BANKERS' REQUEST IS UNTIMELY

1. Section 628.461(1)(a), Florida Statutes, requires that a person seeking approval to acquire a controlling interest in a Florida domestic insurer provide notice of its application for approval to the domestic insurer by sending a copy of the Form A application filed with the Department to the domestic insurer.

2. Section 628.461(5)(a), Florida Statutes, provides that the Department may, on its own, schedule a hearing on a Form A application, or shall schedule a hearing if requested to do so by a substantially affected party. In order for a substantially affected party to request a hearing, however, the statute requires that

> [the] written request for a proceeding must be filed with the department within 10 days of the date of no tice of the [Form A application] filing is given.

3. Season filed its Form A Application seeking approval of its acquisition of a controlling interest in American Bankers on January 27, 1998. On that same day, in compliance with the requirements of Section 628.461(1)(a), Season sent a copy of its Form A Application to American Bankers by Federal Express overnight delivery. The Form A Application was received by American Bankers on January 28, 1998. Copies of Season's cover letter to American Bankers and the Federal Express confirmations of delivery are attached as Exhibit A. Therefore, for purposes of Section 628.461(5)(a), American Bankers received notice of Season's Form A Application on January 28, 1998.

4. American Bankers did not, however, request a proceeding on Season's Form A Application within the ten-day period mandated by Section 628.461(5)(a). The ten-day period ended on February 7, 1998. Because February 7 was a Saturday, American Bankers arguably had until Monday, February 9, 1998, to make its request. It failed to do so.

5. American Bankers' request for a proceeding is curiously undated. A copy of the request is attached as Exhibit B. The request, however, is stamped "received" by the Department's Division of Insurer Services on February 10, 1998, and "received" by the Department's Division of Legal Services February 13, 1998. Thus, American Bankers' request was made outside the ten-day time period mandated by statute.

6. Because American Bankers' did not meet the statutory deadline, the Department is not required to hold a hearing on Season's Form A Application pursuant to American Bankers' belated request. Section 628.461(5)(a), Florida Statutes.

SEASON'S REQUEST TO CONSOLIDATE
AND FOR A HEARING SHOULD BE GRANTED

7. Although the Department is not required to hold a hearing on Season's Form A Application pursuant to American Bankers' belated request, the Department retains the authority to do so. Season has no objection to such a hearing

that is held jointly with the hearing on AIG's Form A Application to which Season, as a party substantially affected by that application, is entitled.

8. As more fully set forth in Season's reply papers recently filed with the Department, American Bankers' request for a hearing in the Season Form A proceedings was no more than an improper attempt to gain procedural advantage for its proposed merger partner, AIG. American Bankers contracted with AIG to use its "best efforts" to ensure the success of the AIG/American Bankers merger, and to allow AIG not only to participate in American Bankers' decision to request a hearing on Season's Form A Application, but also to control American Bankers' conduct in that hearing.

9. Significantly, American Bankers has not requested a hearing on AIG's Form A Application. As set forth more fully in Season's prior submissions to the Department, American Bankers and AIG thus attempt to manipulate the Department's procedural rules by seeking to delay the Department's consideration of Season's Form A Application while permitting AIG's Form A Application to proceed unfettered.

10. By failing to make a timely request for a hearing, however, AIG and American Bankers have lost their opportunity to obtain unfair procedural advantage. Now, only the Department can decide whether to hold a hearing on Season's Form A Application pursuant to Section 628.461(5)(a). Season does not

oppose the Department's doing so, in a hearing that is combined with a hearing on AIG's Form A Application.

11. As a party who will be substantially affected by the Depart ment's action on AIG's Form A Application, Season is entitled to a hearing on that application, and Season has made a proper request for this hearing. As set forth more fully in Season's prior submissions, Season respectfully asserts that due to the nature of these competing applications and the immediate harm threatened to Season by consideration of AIG's application before Season's, the most appropriate course for the Department to take is to consolidated, hear jointly and simultaneously decide both applications.

REQUEST FOR RELIEF

For the reasons stated herein, the Department should deny American Bankers' request to hold a hearing on Season's Form A Application. Season does not oppose a joint hearing on, and simultaneous decision of, Season's and AIG's Form A Applications.

MAIDA, GALLOWAY & NEAL, P.A.

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