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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RICHARD A. TROPP,

Plaintiff,

v.

THE CORPORATION OF LLOYD'S, also known as The Society Of Lloyd's,

Defendant.

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07 Civ. 414 (NRB)

DECLARATION OF RICHARD A. TROPP IN SUPPORT OF SUMMARY JUDGMENT MOTION

Plaintiff Richard A. Tropp, declares, under the penalty of perjury, that the following is true and correct:

1. I am the plaintiff in this action seeking a declaratory judgment that the Society of Lloyd's ("Lloyd's") may not recognize in New York a £463,883.28 summary judgment that it obtained against me in the United Kingdom ("UK Judgment") In violation of basic due process, the UK courts precluded me under Lloyd's unique UK law from submitting evidence on any of my defenses showing that I was not liable or counterclaims showing that Lloyd's had received funds from other sources to pay what it sought from me.

2. I am a member of the Society of Lloyd's, a membership association of individuals recruited by Lloyd's to underwrite insurance. I joined Lloyd's in the expectation that I was taking insurance risk on the terms of Lloyd's traditional business model and of its legal structure, as was represented expressly in its agreement with me

and all new members. I would be joining groups that Lloyd's called "syndicates" for administrative purposes, but I would legally assume investment risk on only on what I individually underwrote and would not be responsible for the losses of any other member. I took investment risk on what I understand was insurance underwriting through Lloyd's for the four underwriting years of account 1988-1991. This meant under Lloyd's standard three-year claims period for claims to be made by policy-holders that I would learn the results of my underwriting in calendar years 1991-1994. I would learn if my risks were profitable and funds paid to me or if they were not and then Lloyd's would make cash calls on me to cover what were purported to be my losses arising from then-current underwriting during my years of account 1988-91.

3. Like thousands of other members, I have questioned for over a decade the amount of future liability that Lloyd's claims I owe for the next 70 years from today under Lloyd's 1996-97 off-balance sheet liabilities reorganization known as Reconstruction & Renewal ("R&R"). Unlike most aggrieved by Lloyd's R&R claims, I can show on particularized evidence that my liability arises from classes of risks which I had prohibited up front in writing as a condition of my agreeing with Lloyd's to join it. My Lloyd's Member's Agent, who, acting on Lloyd's behalf, induced me to sign the agreement with Lloyd's, had agreed that my savings would never be exposed to those specified classes of risk in my underwriting. So had Lloyd's Rota Committee, in my entry screening interview in which I emphasized this prohibition.

4. Further, I can show evidence that, even if hypothetically I were liable as Lloyd's claims, Lloyd's has not accounted for my share of seemingly billions of dollars of various different classes of members' trust funds of which Lloyd's took custody and

control from my Lloyd's agents. My share of those trust funds seemingly would entirely extinguish, if not exceed, my purported R&R liability, if properly accounted for. Notwithstanding my submission of such evidence to the UK courts, those courts held that under uniquely preclusive UK law, neither I nor any member, who is an R&R defendant, has a right to argue the issues raised by this evidence as to the amount of our liability.

5. My complaint, marked as Exhibit A[1], sets forth in detail the workings of Lloyd's and of my alleged entrapment, and that of reportedly thousands of other US citizens, (hundreds of whom reportedly are continuing to be bankrupted today as a consequence) under the UK courts' preclusive construction of Lloyd's unique UK law. This declaration will describe the structure and mechanics of how Lloyd's' R&R claims came about, the nature of Lloyd's claims against me, my basis for denying those claims, and the evidentiary basis that I produced fruitlessly to the UK courts for my belief that Lloyd's has converted funds, which belong to me, for which it has not accounted.

6. This declaration then will describe the "process facts" which support my motion for partial summary judgment declaring that the UK Judgment may not be enforced. These facts show the UK court's refusal to me (and to thousands of others ensnared in Lloyd's' R&R claims) to grant a hearing on the merits in the UK system, through a three and a half year ordeal of preclusion in law at every step at all judicial levels of that system.

How Lloyd's Works

7. A member of Lloyd's ("Member") is an individual underwriter, also known as a Name, who usually associates with other Members to form a syndicate that

[1] All exhibits are separately bound in 2 volumes.

underwrites insurance risks, but each member of a syndicate is liable to pay only his pro rata share of the syndicate's risks. The syndicate is not itself an insurance business, but only the administrative unit for managing the underwriting that the group of members do together, each member being responsible only for his pro rata share of the risks insured. The syndicate is operated by a managing agent. Each Member chooses the syndicates on which he is willing to underwrite risks with the advice of his own individual members' agent, who is different from the managing agent. The members' agent also receives from the managing agent any moneys owing to the Member, on his account, or notice of the Member's obligation to pay funds as a result of losses.

8. When Members join Lloyd's they execute contract documentation. The primary document is known as the General Undertaking, a copy of which is Ex B. Other contract documents are (a) Agency Agreement, relevant portions of which are Ex. C and (b) Lloyd's Premiums Trust Deed, a copy of which is Ex. D. In signing these documents, I relied upon the representations made by Lloyd's about its basic business model, its specific business terms, and its underlying legal structure in another Lloyd's document distributed to all prospective Members to induce them to join Lloyd's: Membership: The Issues of December 1986 (the "Brochure"), a copy of relevant portions is Ex. E. Those statutory and contractual duties, and the traditional structure of the Lloyd's market reflected in Lloyd's statutory framework and contractual documents, framed my responsibilities to Lloyd's, and equally, of Lloyd's responsibilities to me.

9. The Brochure sets out the procedures by which Members underwrite insurance through their managing agents, *inter alia* that Lloyd's requires audit of its syndicates. Members may underwrite insurance through several syndicates because

each syndicate issues insurance as a discrete financial product, i.e. a particular kind of insurance risk which is differentiated from other syndicates' businesses, and in which the particular syndicate is specialized.

My History With Lloyd's

10. In 1987, I worked in the office of the Administrator of the US Agency for International Development. I previously had held a series of government policy positions since completing my education in 1971 and was far from the stereotype Lloyd's "high net worth" Member. My savings were from over 14 years on a public servant's salary.

11. In 1987, an old friend of mine introduced me to John Hayter, the chief executive officer of John Hayter (Agencies) Ltd. ("Hayter"). Hayter was a members' agent, who, acting on behalf of Lloyd's, convinced me to invest in Lloyd's. I posted a fully collateralized $160,000 bank letter of credit ("L/C") on which Lloyd's could draw down to cover future losses, as my committed capital at Lloyd's. Based on my L/C, the syndicates in which I invested could (under Lloyd's "premium capacity limit" prudential risk rules at that time as represented to me) take on risks of up to $640,000. This $640,000 maximum risk ceiling (my personal "capacity") was a multiple of four times my principal at risk across all my syndicates in any given year. I underwrote insurance in syndicates for 1988, after specifically confirming with my member's agent that the syndicates in which I was investing had no environmental long-tail risks at all.

12. I was invited by Lloyd's, through my members' agent, who passed on that invitation, to meet with Lloyd's Rota Committee, a necessary screening before anyone may become a member of Lloyd's. On August 11, 1987, I attend this meeting where I

confirmed directly with the Rota Committee that I would not take, and as a condition of my being induced to join Lloyd's was prohibiting Lloyd's from taking with my savings, any environmental, including toxics, pollution and asbestos, risks at all. While reportedly Lloyd's normally preserves minutes, transcripts, and tape recordings of Rota Committee meetings, Lloyd's now represents that those which had contemporaneously memorialized my meeting have disappeared from Lloyd's files.

13. To confirm my agreement with Lloyd's in writing, I wrote a letter dated September 11, 1987 to my members' agent, who in the recruitment process was acting for Lloyd's when he was soliciting me to enter into the contract with Lloyd's, recapitulating and documenting the discussions which I had had with him and the Rota Committee as to the class of underwriting on which I was prohibiting Lloyd's from putting any of my capital at risk, as a condition of my being induced to join. See Exhibit F. I had previously worked in the United States Environmental Protection Agency during the precise period that the US law of toxics pollution clean-up liability and asbestos liability were evolving and regulations on toxics contamination clean up were being crafted to implement legislation which had just been enacted. I was especially sensitive to these risks and made a point repeatedly during the time that I was being solicited to join Lloyd's of emphasizing to Lloyd's the importance of avoiding them.

14. During my recruitment process, Hayter explained that one reason a middle class person (as opposed to a rich one), could prudently join Lloyd's was that a "personal stop loss" annual insurance policy was always available to cover each year's underwriting at an affordable price of $1,000 to $2,500. The "Stop-loss" provides a cap on the maximum amount of loss that an investor could incur in any year across all hi

syndicates combined, above which cap the Lloyd's syndicate which sold a Stop-loss policy would pick up the excess liability. I purchased Stop-loss to cover my 1988 underwriting when it was offered to me in the spring of 1988. I agreed in 1988 to underwrite in the 1989 syndicates and purchased the Stop-loss for 1989 when it was offered to me in the spring of that year.

15. As in 1988 and 1989, I received an offer through my members' agent from a Stop-loss broker of Stop-loss for 1990 in March, 1990, after I had agreed in late 1989 to underwrite risks in 1990, based on the continuing representation by my members' agent that Stop-loss was always available. I executed the Stop-loss forms and sent them with a check for the premium back to Hayter Brockbank, my renamed members' agent. In April, 1990, Hayter Brockbank returned my check and informed me that the Stop-loss was no longer available. I subsequently learned that the directors and officers of my members' agent, Hayter Brockbank, had been able at that time to procure Stop-loss protection for themselves to cover their own personal risk from 1990 syndicate losses. Stop-loss specialized brokers and underwriters who had been offering Stop-loss at the time subsequently told me that Stop-loss certainly had been available to me or any other outsider Name during the spring of 1990, when a director of my members' agent had represented to me that it was not. The principals of Hayter Brockbank for a certainty knew better, since many of them were able to get it to cover themselves at precisely the time that the agency was representing to me that the cover had been withdrawn from the market and was no longer available to me.

16. In April, 1990, when this happened, I immediately recognized that it would be imprudent for me as a middle-class person to underwrite insurance without a Stop-

loss ceiling to limit my total losses. I orally resigned from Lloyd's as of the end of that year of account 1990 in an April telephone call with Nigel Bunting, Hayter Brockbank's designated person responsible for me. Because I was shortly thereafter called as a military reserve officer to active duty, I was unable to write a letter to Hayter Brockbank until August 3, 1990 confirming my earlier oral resignation from Lloyd's for 1991, a copy of which letter is Ex. G. Just as applications to Lloyd's had to be made through members' agents, such as Brockbank, resignations from Lloyd's also had to made through members' agents. Even though the resignation was submitted more than four months before the end of 1990, Brockbank refused to accept my resignation and to process it through Lloyd's because Brockbank claimed that the written notice had to be made six months prior to the next year. With respect to solicitation of new Members and resignations of Members, under Lloyd's rules, a members' agent was acting as an agent of Lloyd's, as well as an agent for the Member.

17. Upon information and belief, as I learned only years later during the UK litigation, Lloyd's By-Laws had required resignations to be made prior to four months before the commencement of the next year, not six months. Thus, I had timely submitted my resignation in 1990 and Lloyd's, through its agent, Brockbank, had wrongfully rejected it. As a result, I underwrote insurance in syndicates for 1991 without Stop-loss insurance without a Stop-loss ceiling on my total risk that year. My resignation from Lloyd's was never accepted. I remain a member today against my will, seventeen years after I had resigned, but I was able to stop underwriting as of the 1992 year of account. Liability arising from my conscripted extra year of 1991 constitutes a material portion today of Lloyd's alleged quantum of claim.

18. In each separately of 1992 and 1993, Brockbank requested me to sign a Voluntary Release form giving my consent to a cash call to be executed as a drawdown on my L/C by the Central Services Unit of Lloyd's ("CSU") At the time the cash calls were made, Brockbank represented that the cash calls were for losses arising out of my underwriting on my 1989 and 1990 syndicates (whose accounts for those years had closed after their three-year claims periods of respectively, 1991 and 1992). Based upon what I later learned was a misrepresentation as to the source of the losses as being materially from "current" (in accounting terms) underwriting business done in my years, I voluntarily consented to my L/C being drawn down to pay the two cash calls. Together they wiped out most of the principal of the L/C, and the collateral behind it which my bank had held.

19. In May, 1994, Lloyd's made a third cash call based upon my conscripted 1991 underwriting. This call would have emptied the residual left in my L/C and would have wiped out my entire liquidity, unless I had sold or taken a second mortgage on my home. I began asking for an accounting of the nature of my losses, in particular whether they were consistent with my entering prohibition not to place any of my savings at risk on environmental long-tail underwriting. In summary, various Lloyd's offices "stonewalled" my requests for an accounting for 15 months, during which I became much more acquainted with Lloyd's' internal structure in the process of casting about for someone who would address my questions.

20. I made oral and written requests upon Brockbank, Lloyd's CSU and other Lloyd's internal offices and individual Lloyd's officers for a detailed explanation of the losses that resulted in the cash call for 1991. I then exchanged extensive oral and

written communications with Lloyds, but Lloyd's materially refused to explain the losses that resulted in the cash call for 1991. Lloyd's did, however, suspend the 1994 cash call through October, 1996 while my requests for an accounting and then negotiations continued. After October, 1996, Lloyd's Chief Executive, Ron Sandler, told me that he had asked the Head of CSU to attend to my inquiries and in particular to provide that accounting. I never received any response from the Head of CSU to my questions on the nature of my purported losses.

21. During my requests for information from and then futile negotiations with Lloyd's in 1994 and 1995, the Internal Revenue Service ("IRS") did an audit of my 1992 and 1993 losses from my syndicates from underwriting in the years of 1989 and 1990. The IRS suspended almost all of these losses, even though they had been real cash out of pocket losses (what IRS called real "economic losses") because those losses were not a final disposition of my liability within the meaning of the tax law. The IRS made a detailed analysis of my tax returns compared to the tax "information returns" submitted to IRS by Lloyd's on my loss syndicates (but not provided by Lloyd's or by my syndicates' the managing agents to me). In this analysis, the IRS determined that, for the most part, I had been reinsuring my own liability from prior years on the same syndicates rather than participating in new current year insurance underwriting. Thus, under the tax law, I was still liable for the earlier year's losses, which had been self-reinsured by my prior-year syndicates into my later year syndicates, which were their own successor selves (as that has been characterized in multiple Lloyd's documents) run by the same managing agent. What IRS's review showed it was that my major loss syndicates materially had not been underwriting new business each year. Rather those

syndicates materially had been running their own, old self-reinsurance transaction balance sheet carry-forward through their income statements, treating the carry-forward as if it were "current" income in their reports to their members, including me.

22. Lloyd's individual tax report to me of April 1993 inadvertently revealed a profit commission which had been taken by my members' agent on the final results of my underwriting year 1990 huge net loss across all my 1990 syndicates combined. The 1990 syndicates' books had been closed as of December 31, 1992, at the end of Lloyd's' standard three-year syndicate claims cycle for insured policy holders to submit claims to a 1990 syndicate. These profit commissions represented previously undisclosed private side payments (aka "kickbacks") made by my loser syndicate managers to my members' agent for having placed some of my "premium capacity" (my savings) at risk on those managers' long-tail and LMX syndicates which were badly underwater and had needed extra capital. These "placement fees" from some syndicates' managing agents to my members' agent (who was getting paid on the side by the syndicates' agents for having placed my capital with their syndicates, which needed it, rather than with others) were over and above the schedule of fees that had been disclosed to me by my syndicates' managers and my members' agent.

23. As a result of this incident and a couple of others which began to indicate seeming self-dealing by my members' agent and others on whom I was depending in Lloyd's, I first began to learn Lloyd's internal regulatory by-laws, and to try to disaggregate my numbers as those had been represented to me. I also began intensive communications with Lloyd's internal self-regulatory staff and with officers of my Members' Agent.

24. As a result of my repeated requests, in August 1995 Lloyd's Financial Recovery Dept. ("FRD") directed my syndicates' managing agents to make available to me the syndicate accounts of the run-off agents of six of my largest loss syndicates, Sturge 206 (Marine), Sturge 210 (Non-marine), Outhwaite 317/661, Spratt & White 287/357, Williams 235 and Crowe 666 (succeeded in part by Brockbank's Sentinel 929). The Deputy Director of FRD told my syndicates' managers to open their raw accounts to me for examination. A UK forensic accountant, supervised by a former UK law enforcement agent in a UK equivalent of Kroll, did a desk review. They reported back preliminarily that 98-99% of what had been my reported losses (a) were ultra vires my entering prohibition; (b) were not in the lines of business which those syndicates had reported that they were doing, and on which, therefore, they would put my savings at risk; (c) had not originated from "current" underwriting in my year, but had been rolled over multiple times from underwriting originally done a decade or more earlier; and (d) were in my investigators' preliminary judgment wrongfully attributed by Lloyd's to me.

25. I spent the next one and a half years fruitlessly seeking an accounting of my true liability (if any) from various internal offices of Lloyd's, including its Regulatory Services Directorate and ultimately its CEO, to whom I was introduced by a close mutual friend. On November 8, 1995, I agreed in principle with Michael A. Meeson of Lloyd's FRD, that Lloyd's and I would settle on the "full and final" terms in Lloyd's standard Settlement and Release Agreement pending seeing the language of the specific document he would offer me, which he sent formally on December 11, 1995. I then pursued FRD to agree upon what would be paid in a settlement and to execute the final agreement, but FRD went silent and Mr. Meeson would not respond. I later

learned that in the run-up to Lloyd's reorganization, described below and defined as R&R, Lloyd's had instructed FRD to stop negotiations and not to execute even with Lloyd's members with whom they had already agreed on settlement.

United States Litigation Over Allegedly Improperly Assumed Risks

26. Numerous lawsuits were commenced by Lloyd's US Members claiming that Lloyd's had committed many wrongs in connection with shifting to new Members Old Years' liabilities (Lloyd's term for losses from underwriting originally done before 1982, passed forward into the future by reinsurance of earlier-year syndicates' losses). This shift to new members occurred by means of mid-1980s syndicates' self-reinsurances to close into their own future late-1980s and 1990s successor year. These known losses were Incurred But Not Reported ("IBNR") liability, not yet crystallized as current loss in notified claims currently due and payable in a particular amount. In these cases, Lloyd's took the position that all actions had to be brought in the United Kingdom, where there existed numerous remedies for aggrieved Members. Relying upon Lloyd's representation that numerous remedies did exist in the United Kingdom, the US courts dismissed all of these 1992 -1996 lawsuits in which Americans were plaintiffs.

Lloyd's Succeeds its Agents as Trustee of all Members' Trust Funds and Becomes Their Fiduciary

27. In 1994 and 1995, the New York State Department of Insurance examined the Premium Trust Funds, and found in May 1995 that reserves in them were insufficient to cover Members' liability by over $8 billion gross and over double that net. In regulatory accounting terms, Lloyd's was in regulatory insolvency at the market level. Some Members' accounts were short; other Members' accounts had assets in excess of

their liabilities. The US trustee of the aggregate Lloyd's American Trust Fund had commingled all Members accounts in order for the latter to support the former on a liquidity basis in what Lloyd's subsequently called "borrowing", unknown at the time to the Members who owned the trust funds which were in surplus. In August, 1995, Lloyd's amended the Premium Trust Deeds to permit one Members' assets to be used to pay, on a cash basis, other Members' liabilities to policy-holders insured by their syndicates, albeit in theory Members whose liability was being cross-subsidized incurred an obligation to the Members who assets were involuntarily, and without their knowledge, used by the trustee at Lloyd's direction.

28. In April, 1996, Lloyd's again amended the Premium Trust Deeds to substitute Lloyd's for all Members' Agents as the fiduciary trustee for purposes of taking control of all Members' trust funds. A copy of the amendment to the Premium Trust Deed of April, 1996 is Exhibit H. Before this amendment, each Member's individual Members' Agent had borne a trustee's duty toward the member with respect to his trust funds which they controlled. Now as successor Trustee, Lloyd's did. The effect of this amendment was that Lloyd's could move the Members' trust funds out of their trust accounts and into another entity as part of a reorganization described below.

Lloyd's Off-Balance Sheet Old Liabilities Reorganization

29. The expression "long-tail" in insurance refers to liability which is known by the end of the insured period to be inevitable, but does not become realized as "current" loss that is due and payable in the present as "notified claims" for a long time. Consequently, the amount and timing of the future loss "develops" (become clear to the insurer) only over time, as opposed to being known at the end of the underwriting year

in which the insurance had been taken out by an insured policy-holder. Under insurance accounting standards, long-tail IBNR liability has to be booked on the balance sheet as a current liability as soon as the future loss is known to be inevitable, and has to be reserved against in the present. In Lloyd's, long-tail syndicates from at least 1982 and after commonly self-reinsured their own prior-year selves. In doing so, they assumed old environmental IBNR liabilities without, they would say "in retrospect", commensurate reserves being carried forward from the past to cover those liabilities in future years when they were to become current losses. These long-tail syndicates infected many non-long-tail syndicates through Stop-loss insurance of their individual members, "excess of" loss reinsurances of the syndicate's liability above a particular level, estate protection cover of their individual members, and Errors and Omissions cover of their managing agents being insured by other syndicates. Thus, this spreading of long-tail IBNR liability purportedly created what Lloyd's represented as a mid-1990's market-level crisis, as opposed to only an overhang of old, as yet unrealized, liability which legally was and economically could have remained contained as a problem for the members of particular old syndicates.

30. In light of this reported crisis, Lloyd's formulated an off-balance sheet restructuring of the liabilities of Members in syndicates underwriting prior to 1993, known as Reconstruction and Renewal or "R&R." In R&R, Lloyd's transferred its pre-1993 long tail IBNR liabilities (and some others) off its balance sheet onto the newly created special-purpose captive reinsurance entity, Equitas. Equitas is a holding company, owned by a trust, the beneficiaries of which are the reinsured Members, but controlled by Lloyd's. In R&R, all Members were compelled to use Equitas as their

reinsurer. After R&R, Lloyd's subsequently represented to a new generation of prospective Members and insurance customers that "New Lloyd's" no longer bore those liabilities. United Kingdom and United States insurance regulators approved the R&R off-balance sheet reorganization.

31. As part of the restructuring in August, 1996, Lloyd's sent statements to each Member called "Finality Statements" which purported to reflect their next 80 years projected future liability, which Lloyd's required them to admit (in effect confessing judgment and waiving all defenses against future rounds of collections) as a condition of reaching a settlement with Lloyd's as part of the forthcoming restructuring or be sued for all of the 80 years projected future liability at once (total "R&R Liability" which is also known as "Equitas Premium"). The settlement required that each Member was to pay Lloyd's part of their reinsurance premium at the time ("Amount Due"), to obtain what reportedly appeared to most members be a "release" from all future liability. "Release" was an expression which had been used a lot by Lloyd's in its promotional correspondence to its Members for fifteen months before the moment of truth when they were solicited to sign the R&R settlement offer agreement. On the language of the agreement itself, however, Members' signature would be an admission and a confession of judgment, in effect a hostage taking, for that total "R&R liability", not only the installment they were being asked to pay immediately.

32. In fact, under the restructuring, if the immediate Amount Due from all Members combined turned out in the future to be insufficient in the aggregate to pay the accumulated Old Years' environmental long-tail and other liabilities which had been reinsured from the 1970s and early 1980s Members onto the 1990s Members, Lloyd's

reserved the right to collect any such projected shortfall in Equitas' future reserves from its Members who settled and paid their Amounts Due. Any such projected shortfall could be collected against them after they had settled up to (and above, under their original entering agreement) the amount of the R&R Total Liability most of which they reportedly thought they were being "released" from precisely by settling in R&R.

History of Lawsuits Arising from R&R

33. Most Members agreed to R&R, but approximately 5% did not agree to R&R.[2] Lloyd's obtained default or summary judgments against those Members in the UK. As to defendants who were US residents, Lloyd's then sought to enforce the judgments in the US. Many of the US residents resisted enforcement of the judgments on the grounds that they had been obtained in violation of due process. The Members argued that their claims against Lloyd's had never been heard as a result of UK rulings which precluded the courts from hearing their defenses. These UK rulings relied upon the Members agreement to comply with Lloyd's bylaws when they entered, and therefore were bound by an R&R Contract which Lloyd's had "mandatorily" (its expression in court) imposed on all Members irrespective of whether they had actually settled. Lloyd's took the position that it could obtain judgments and enforce them so long as Members could assert counterclaims in the UK to obtain relief and various remedies existed in the UK to hear the Members' claims on their merits. See, for example, Lloyd's Brief in the Appellate Division of the New York Supreme Court in the case of *Society of Lloyd's v. Grace,* October 4, 2000, a copy of which is Exhibit I. Relying upon Lloyd's representations that remedies existed in the United Kingdom for

[2] Lloyd's claims that approximately 5% of its Members did not agree to R&R. Other members who did not agree have claimed that the percent of Members is much higher.

Members to have their claims heard on the merits, courts in the United States consistently enforced judgments rendered against Members under R&R.

My Experience With Lloyd's Restructuring

34. In August of 1996, I received (a) a document called Settlement Offer Document, which described some of the features of the R&R, (relevant portions of which are Exhibit J) and (b) my Finality Statement which represented my alleged next 80 years' projected future liability, £253,409 from uncalled accrued cash calls from my underwritings in my 1989, 1990, and 1991 syndicates with interest thereon along with £114,439 for my share of the Equitas Premium, a copy of which is Exhibit K.

35. In October 1996, Lloyd's' UK counsel wrote saying that my R&R total liability was payable all immediately, not under the Settlement Offer Document which Lloyd's had sent and was soliciting me to sign, but under another contract I had never seen or consented to, the R&R Contract. Thereafter I received Lloyd's' own internal non-public detailed analysis of the years of origin and the sources of my syndicates' losses, prepared by Lloyd's' internal Equitas Working Group for discussion by Lloyd's with its managing agents of syndicates which Lloyd's wanted to reinsure into Equitas as part of R&R, not meant to be shown to outsider members of syndicates. These syndicate-level analyses confirmed that virtually all of my losses now represented by Lloyd's as being my R&R total liability came from precisely the class of environmental long-tail risks which, at the time I joined, I expressly had prohibited from using any of my savings to underwrite. After I discussed this situation with Lloyd's, in March, 1997 Lloyd's chief executive, Ron Sandler offered me the old pre-R&R "full and final" Individual Settlement Agreement ("ISA"), materially on the terms documented in the old

pre-R&R Settlement and Release template which Mr. Meeson had shown me, if I would make a $5,000 payment and release Lloyd's from any claim for recovery. They and all their related parties, in turn, would release me from future contingent liability, exactly as provided in the old pre-R&R Settlement and Release template. I accepted this ISA settlement offer and believed that, as a result, I was considered by Lloyd's to have accepted R&R. Lloyd's' CEO represented to me multiple times personally that even though the executing documentation was slow in coming from Lloyd's' Financial Recovery Department ("FRD"), that they did consider me to have settled and considered themselves to have settled with me (a "done deal"; an "agreement made"). The FRD deputy in charge of settlements with and collections from Americans, in particular, sent letters during 1997 assuring me of this, and promising that they would execute on their CEO's word by sending the completion documentation soon.

36. On July 9, 1998, Phillip Holden, the head FRD, wrote me a letter reconfirming that a settlement had been agreed upon with me which only needed to be formalized and that I should be considered an accepting Member for R&R purposes, a copy of which is Exhibit L. In August, 1998, I learned that the United Kingdom Inland Revenue ("Inland Revenue") believed that I owed income taxes for "cancellation of debt" ("CoD") non-cash taxable income from the past tax year, based on R&R tax reporting by Lloyd's to Inland Revenue. Such a report by Lloyd's to "the Revenue" would only have made sense if Lloyd's itself had internally booked me as having settled.

37. I repeatedly requested the final settlement agreement from Lloyd's and received correspondence from Lloyd's on January 25, 2001 and March 15, 2001 confirming the agreement, copies of which are Exhibit M. Nevertheless, Lloyd's never

did send the completion documentation executing on the pre-R&R "full & final" structure and terms which its own CEO had offered, to which I had agreed, and in reliance on which I had forborne from bringing a claim myself for recovery.

My Experience with the UK Litigation Process' Systemic Preclusion of My Issues and Evidence

38. On August 20, 2002, Lloyd's filed a lawsuit against me in the UK High Court of Justice, Queens' Bench Division, Commercial Court ("Commercial Court") claiming £433,560.19 representing my alleged R&R total liability from my August 1996 Finality Statement plus interest thereon since September 1996, when the R&R Contract came into effect. My time to answer or move with respect to the complaint was extended by Lloyd's to May 1, 2003 in contemplation of settlement. However, the settlement was never finalized as Lloyd's insisted that I release not only Lloyd's, but also all of its related parties including multiple dummy subsidiaries and Equitas, but that non-reciprocally, only Lloyd's itself would release me. This would have left Lloyd's free to sue me again any time in the name of one of those dummy subsidiaries, or as agent of Equitas (though nominally, not for itself) if Equitas were ever projected to run short of reserves assets and to be in danger of regulatory capital inadequacy.

39. As a result on April 28, 2003, I applied to the UK court to decline to exercise its jurisdiction, on the ground of spurious service by Lloyd's. I attach as Ex. N relevant excerpts from my UK pleadings setting forth the grounds of my motion based on the fact that service was made only upon the shell local agent, AUA9, which Lloyd's wholly controlled and for which Lloyd's senior employees signed acting purportedly for me and for other American (and other non-UK) defendants to Lloyd's R&R claims. I argued that, in effect, Lloyd's had served itself, not me, submitting a sworn Certificate of

Service to the UK court that I had been served. On May 1, 2003, Lloyd's terminated all settlement discussions and revoked its prior offer of settlement. On January 20, 2004, the court denied dismissal for want of service, a copy of which decision is attached as Ex. O. The Court relied on a Lloyd's by-law in which Lloyd's had assumed authority to name Substitute Agents for its individual syndicates, and in reliance on which Lloyd's had 14 years later named the shell agent AUA9 as Substitute Managing Agent for all of the pre-1993 syndicates which were getting reinsured in R&R, for the purpose of purportedly signing the R&R Contract on behalf of all Names though without their contemporaneous knowledge or consent. In that Contract, AUA9 had sub-delegated to itself a power to receive and to accept service in my name in the event of any claim by Lloyd's against me (or any other member) under the Contract. As the basis for dismissing my application, the UK court held that this fiction of a contractual sub-delegation by a paper dummy shell agent to itself overrode what would otherwise have been the governing UK civil procedure law of "consensual service" (aka "contractual service") and the settled UK law of principal and agent.

40. On May 14, 2004, I filed my defenses and counterclaims of set-off in defense, both of which submitted that (a) Lloyd's had alleged R&R liability against me in its claim which materially had arisen from precisely those environmental long-tail risks which I expressly had prohibited on joining Lloyd's, and that Lloyd's had agreed I could underwrite without being exposed to, which risks were the source of materially 99% of my losses; (b) there were substantial funds controlled by Lloyd's in trust for me which belonged to me that Equitas had not received as cash, which should have been credited to my account, such as proceeds from stop loss reinsurance that I had purchased,

among many others; (c) Lloyd's seemingly had failed to credit my account with monies that Equitas had received on my behalf, such as £269,893 listed on the Statement of Reinsurance jointly issued by Lloyd's and Equitas, dated December 27, 1997, my pro rata share of my syndicates' assets which had been transferred to Equitas; and inter alia, (d) Lloyd's had not credited me with my share of the surplus of £3.809 billion of "RITC debts" that Equitas had assigned to Lloyd's as a security interest in full repayment of a £285 million advance which Lloyd's had made to top up Equitas' starter capitalization at the time of R&R, if in fact Lloyd's had actually collected some or all that book surplus. A copy of my defenses and counterclaims is Ex. P.

Details of Evidence that I Submitted to the UK Court: Wrongful Liabilities Alleged Risks That I Never Agreed To Underwrite

41. In particular, my counterclaims sought "specific performance" by asking for recalculation of my losses on each syndicate to conform to the underwriting risks I had agreed to assume, an unwinding of the syndicates that engaged in self reinsurance without my knowledge, not to mention consent, and a restatement of the annual results of each syndicate reflecting the proper recalculation and unwinding. In effect, I sought an accounting of my investment in underwriting insurance as part of Lloyd's. If I had received my accounting, upon information and belief, I would have shown that about 99% of the R&R liability and over 95% of the cumulative losses attributed to me arose from risks I had agreed with Lloyd's that I would not underwrite. Even if I had agreed to underwrite those risks, almost all of the amounts which Lloyd's alleged I owed and had claimed against me had, if fact, been covered by my trust fund assets which Lloyd's had directed my agents to turn over to Lloyd's itself, but that were then never paid to Equitas as cash nor credited to my account.

Long Tail Syndicates: Old carried-forward known "Inevitabilities" losses represented as if "current" insurance "Fortuities"

42. I had, and showed to the United Kingdom courts, substantial threshold evidence to support my defense and counterclaims for set-offs in defense. In the Equitas quotations which Lloyd's' internal Equitas Working Group had prepared, (referred to in ¶§ 35 above), a copy of which is Ex. Q. Lloyd's analysis showed that my syndicates 235 (1989), 206, 210, 287/357 and 317/661 (1990); and 206, 210, 235, 287, and 317 (1991) were all syndicates with substantial old environmental liabilities ("Long Tail Syndicates")[3]. About 95% of the losses for which Lloyd's commenced its action against me arose from these syndicates, and consisted of reinsured environmental liability from prior-year predecessor syndicates (run by the same managing agent) which had underwritten environmental risks including toxics pollution and asbestos -- just the kind of risk that I had expressly prohibited Lloyd's up front on entry from ever putting my savings at risk to underwrite. I submitted this evidence to the Commercial Court. See my Answer Witness Statement, dated April 27, 2004, Exhibit Q.

43. I also explained to the Court that my Member's Agent had acted as Lloyd's authorized actual agent, or in the alternative, its apparent agent, in agreeing on behalf of Lloyd's to my entering condition that I would only join if my savings were never used to underwrite risks of long-tail environmental, including asbestos, losses. Exhibit Q. I had confirmed my agreement with Lloyd's by describing my Rota Committee entry interview which Lloyd's did not refute. Exhibit. Q At that interview, Lloyd's officers had

[3] Ex. P shows "Outstanding Claims" for each syndicate. The first category of claims is "APH" which stands for asbestos, pollution, and health. For example syndicate 235 showed total claims of $93,904,000 of which $92,452,000 or 98.45% were from this category that I was not supposed to insure.

agreed that I could join on the condition of this entering prohibition, and that Lloyd's would (through my syndicate selection process) honor it.

Long-tail <u>self</u>-reinsurance was per se not true "reinsurance"

44. The Long Tail Syndicates incurred losses writing reinsurance without receiving adequate premium from their own past selves in prior years of account to establish reserves in the future years for the risks accepted by their managing agent as being reinsured by the future-year members. Reinsurance is supposed to be an arms-length transaction whereby a premium is set equal to the discounted risk to establish reserves that can bear the liability the reinsurer is assuming from the buyer. I relied on Lloyd's representations that reinsurance for Lloyd's purposes had the same meaning as reinsurance had throughout the industry-it was to be written in an arms-length basis, as set forth in the Brochure, Ex. E. The carry-forward by long-tail syndicates of their own old IBNR liabilities from the past by self-reinsurance would not, because it was not arms' length, meet the accounting standards, regulatory accounting, or industry common usage tests of being true "reinsurance".

45. Under Lloyd's prudential solvency rules as to reserves, all syndicates were limited to a "premium capacity limit" of accepting premium up to a ceiling of four times the capital committed by their Members to them. As a result, each syndicate theoretically would have a 25% reserve consisting of the Member's capital. However, Lloyd's applied this 25% net capital requirement only to true new current underwriting. Lloyd's did not apply its prudential 25% reserve requirement to my Long Tail Syndicates, insofar as (for the most part) they were insuring their prior year selves. There was no "premium capacity limit" at all on (and therefore no net capital supporting)

the amount of risk which my syndicates' managing agents were knowingly allowed by Lloyd's to self-reinsure from the same syndicate's prior years.

46. This means, for example, that if a syndicate had $25 million in net capital committed by its members in a given year, then the limit of new premium (a proxy for the level of risk) which its manager could accept would be no more than $100 million in new premium business, if that were all new underwriting. If, on the other hand, hypothetically 80% of the $100 million in new premium business were self-reinsurance carried forward from that same syndicate's own prior year risk, then Lloyd's would allow the syndicate to support the total risk it was assuming in the current year with $5 million net capital instead of $25 million. This was 25% of (only) $20 million in new underwriting, but no net capital as a cushion against the $80 million of self-reinsurance carried forward.

47. Thus, in this example, the arithmetic is that a long-tail syndicate would be deemed by Lloyd's to be in compliance with Lloyd's prudential rules as to reserves by carrying only 5% instead of 25%, net capital reserves to support its <u>total</u> risk of $100 million. If long-tail self-reinsurance, as opposed to new underwriting, had been 99% of that syndicate's risk exposure (as happened with many of my syndicates) then its true net capital supporting that risk would have been less than 1% of its total risk exposure in that year. This was deemed by Lloyd's, as to syndicates which self-reinsured their own prior-year long-tail liability, to be in compliance with Lloyd's' reserving rules.

48. Such self-reinsurance, which Lloyd's' permitted to proceed with no required current reserves on the basis that for regulatory solvency purposes it was not current "pure-year" original underwriting, was at the same time allowed by Lloyd's

under its internal accounting rules to be treated as "current" underwriting for the different purpose of financial reporting by those syndicates to their members (who were bearing that risk on them, without any cushion of new current-year net capital) and to the markets. Ultimately when the re-insured environmental risks were to materialize, there would be inadequate reserves to pay for them.

49. These self-reinsurance transactions did not consist of true insurance business, which assumes the risk of future loss that may or may not happen, in UK law a "fortuity." These transactions imposed a liability for a known past loss, in UK law an "inevitability", carried forward from the past but booked as new business with only the risk of future loss. In effect, these self-reinsurance syndicates actually did not exist as going concern "business" by the 1990's. They materially were shells through which the managing agents laundered billions of their old environmental losses from past to future, soliciting unwary new reportedly mostly middle-class investors, including me and reportedly some 4,500 other Americans, to float the process.

50. Lloyd's knew what the syndicates who self reinsured were reporting to the public, not only because the officers running Lloyd's itself during the mid-1980s through R&R were materially the same individuals as those syndicates' principal managing agents and the controlling parties of their holding companies, but also because of the managing agents' internal reporting to Lloyd's on their syndicates. Lloyd's aggregated all syndicates' reporting in its own report know as "Global Accounts," which Lloyd's represented to the capital markets annually. Lloyd's knew that (a) those syndicates' self reinsurance was not new current business, nor true reinsurance, (b) to the extent of syndicates' *self* reinsurance, the managing agents should not have been booking new

premium income as if the old non-arms' length carry-forward were "current" and true "revenue" and "income", (c) to the extent of syndicates' self reinsurance, the managing agents should not have been taking fees out of reserves as if the purported "business" were new, and (d) to the extent of syndicates' self reinsurance, reserves were not set up consistently with Lloyd's' prudential solvency reserving regulations for true current year underwriting. Nevertheless, Lloyd's did not stop them nor did it, as a market self-regulator, require them to maintain the usual net capital against the environmental liabilities they had assumed from their own past by their self reinsurance.

51. The managing agents were also churning multiple redundant fees out of reserves to pay claims on the purported new "profit" each year, which was just from recycling the same single old transaction. Lloyd's accounting rules allowed managing agents to take profit commissions out of claims reserves paid as premiums in self reinsurance transactions year after year, multiple times redundantly on one original underwriting for ten to fifteen years. In securities transactions, this would be called "churning" of fees out of the corpus of investors' principal and of regulated reserves.

52. I showed the UK courts authoritative evidence that my alleged R&R liability claimed by Lloyd's as losses from these syndicates came from such self reinsurance, including:

a. Internal confidential analyses prepared by Lloyd's internal R&R Working Group of Lloyd's own staff and consultants to supporting their Equitas premium quotation tables for each of my syndicates (a copy of which is Ex. Q)
b. My worst loss syndicates informational tax returns which had been filed by Lloyd's itself with the IRS. (a copy of which is Ex. S)

The R&R Working Group's quotation tables show that virtually all of the syndicates' outstanding claims arose prior to 1988, when I first underwrote insurance. The Working

Group's analysis of each syndicate's IBNR Outstanding Claims as of the time of R&R (Ex. P), the IBNR liability which was going to be reinsured into Equitas as part of R&R, shows the years of account of the original underwriting of the claims. For example, Syndicate 235 showed $93,904,000 in claims, $93,466,000 of which, or 99.5%, long pre-date 1988, when I first underwrote insurance. Thus, this 99.5% of my R&R liability on syndicate 235 had to have been non arms'-length self- reinsurance of old IBNR liability. My other worst-loss syndicates which are included in Lloyd's R&R liability now alleged against me had materially similar composition of IBNR originating in my years of account as versus old self-reinsured carry-forward.

53. The "churning" of fees each year out of the corpus of reserves, redundantly multiple times on the same old carried-forward transaction which had been an original underwriting years ago, would have compounded itself in depleting reserves cumulatively over time. This left those reserves not adequate at the time of R&R to cover the old IBNR liability that correspondingly had been carried forward on the other side of my syndicates' balance sheet, which those reserves were supposed to bear.

54. I presented a sample of the above threshold evidence on my Long Tail Syndicates to the Commercial Court with my (a) Part 24 Answer Witness Statement of April 27, 2004 in opposition to Lloyd's' application for summary judgment, a copy of which is Ex. R, (b) my Part 31 [discovery application] Statement of Case of February 24, 2004, a copy of which is in Ex. Y, and (c) with my Respondent's Part 3.4 Skeleton Argument of October 30, 2004, a copy of which is Exhibit T.

LMX Syndicates also materially reinsured long-tail environmental old liability, though on their face they appeared mostly catastrophe risk

55. My losses from underwriting environmental old risks, without my then-knowledge, arose not only from the Long Tail Syndicates but also from my London Market Excess of Loss ("LMX") syndicates. My LMX syndicates' property "excess of" reinsurance of other syndicates is reported by knowledgeable experts to have included a material component of such long-tail carried-forward old liability. Like long-tail syndicates which did self-reinsurance over time, LMX syndicates also extracted multiple "layers" (as they are called in LMX) of redundant agent commissions from out of the corpus of reserves. Unlike long-tail syndicates in structure, LMX syndicates insured only a designated layer of loss in excess of other reinsurance layers written by other syndicates all in the same year (reportedly taking commission gross of the whole risk exposure below them rather than only on their own retained net layer), while Long Tail Syndicates insured an entire loss carried forward from their own cumulative prior years. I was placed into LMX syndicates 666 (1989), 666 (1990) and 666's successor, 929 (1991), Up to 40% to 60% or more of total loss from my LMX Syndicates, upon information and belief, came from old environmental risk in contravention of my original agreement with Lloyd's.

56. I presented my understanding of the LMX Syndicates, on information based on those industry experts' reporting, to the Commercial Court in the Answer Witness Statement, April 27, 2004, Ex. R.

Extra Year's Material R&R Liability Alleged from Losses After Resignation Offered Timely in Year Before, but Which Lloyd's Would Not Accept

57. I submitted my resignation from Lloyd's to my members' agent, the party designated by Lloyd's to receive resignations, in writing on August 3, 1990, (a copy of which is Exhibit G) confirming my oral resignation in April, 1990. Lloyd's has submitted

to the UK Court of Appeal in another case that Lloyd's by-laws permitted resignations for the subsequent year, so long as they were submitted more than four months prior to the commencement of the subsequent year, in a lead case in which the Court relied on that representation. *Lloyd's v Bowman* [2002] EWCA Civ 1886 (19 Dec 2004) at § 21. (A copy of this case and all UK cases cited in the accompanying Memorandum of Law are in Exhibit U). Thus, so long as my resignation had been submitted prior to September 1, 1990, it should under Lloyd's' rules have been effective for 1991. However, Lloyd's, in violation of its by-laws, did not accept my resignation for 1991. Thus, my alleged R&R liability from 1991 syndicates is arguably wrongful.

58. I submitted my evidence as to the losses after my resignation to the Commercial Court in the Answer Witness Statement, ¶13 April 27, 2004, Exhibit R and Reply Witness Statement, ¶14 and ¶17(a) April 23, 2004, Ex. W.

Further Evidence I Submitted to the UK Court: Assets Gone Missing

Funds Belonging to Me but Not Paid to Equitas on My Account

Stop Loss Reinsurance

59. I purchased Stop Loss Reinsurance for 1989, a year in which I incurred substantial losses, to put a ceiling on what my losses could be in any given year across all my syndicates. The syndicate that sold me 1989 stop-loss paid on the policy to may broker, which acted under my members' agent control. On November 24, 1997, my members' agent, Christie Brockbank Shipton ("CBS") wrote that my stop loss recoveries were supposed to be credited to my final R&R statement. On December 1, 1997, CBS wrote that my stop loss underwriter had paid £28,831.28 from my 1989 stop loss insurance. On June 2, 1999, CBS reported that the broker, who placed the Stop Loss

Reinsurance, subject to Lloyd's control, was holding this cash. Thereafter, CBS reported that the broker turned over the funds to Lloyd's (Copies of the relevant correspondence are attached as Exhibit V).

60. Neither the £28,831.28 nor any other stop loss insurance proceeds have ever appeared on my Finality Statement, Equitas' Statement of Reinsurance, or on the claims Lloyd's has asserted against me. Those proceeds just disappeared. Equitas reported to me that it never received any of the proceeds on my account. They were never even credited in book by Lloyd's to reduce my alleged R&R liability. All stop loss proceeds attributable to me should be deducted from my Equitas Premium and Lloyd's claims against me.

61. I produced evidence of the stop loss insurance proceeds to the Commercial Court, which showed the manifest error in the amount of Lloyd's claim against me. See Ex. W, Reply Witness Statement, April 23, 2004, at 6-7.

Profit Distributions to me from my pre-R&R Profit Making Syndicates

62. Not all of my syndicates lost money. Even in my worse loss years, a material number of my syndicates earned substantial profits. Under the Collection and Distribution Arrangements, also known as "the C&D Scheme," CBS received profit distributions in 1992 through 1995 for, upon information and belief, approximately $500,000 to $750,000 for me by my profit-making syndicates, held the cash in transit accounts pending R&R, and then turned over the cash to Lloyd's to pay to Equitas on my behalf and to reduce my Equitas Premium. See Facsmiles from my Member's Agent, Christie Brockbank Shipton, dated May 4, 1999 and May 28, 1999, Ex. X.

63. This cash from profit distributions made to me is entirely missing from my R&R Finality Statement and my Equitas Statement of Reinsurance. It is not booked on either one as a credit that would have reduced my Equitas Premium. Equitas reported to me that it had no record of ever receiving any C&D cash on my behalf from Lloyd's. Nor does the cash appear as a credit in Lloyd's claims against me. Since Lloyd's substituted for CBS as trustee of the C&D Accounts in April, 1996 pursuant to an amendment of the Premium Trust Deed (Ex. H), Lloyd's owes a fiduciary duty to me to account for all of my C&D cash.

64. I produced documentation which evidenced the missing profit distributions to the UK Court, as further evidence of error in the quantum of the claim against me. See; Reply Witness Statement, April 23, 2004, Ex. W, pp. 3-4.

Assets Stripped from my pre-R&R Syndicates' Reserves that should have been paid to Equitas as cash, reducing my R&R liability pro rata

65. Several syndicates reported to their Members that during the run-up to R&R, Lloyd's internal R&R Working Group required them to write down as value-impaired or write off entirely some their reinsurance reserve assets from third party, solvent reinsurers, which the run-off managing agents of these syndicates considered as sound. The managing agents reported to their Members that the Members would be required by Lloyd's to pay individual Equitas premiums higher than what would have been required from them if those reinsurance assets had been, in the managing agents' judgment, booked at fair value.

66. One of the managing agents that so reported was the run-off agent for three of my syndicates from which Lloyd's now claims that some of my alleged R&R liability arose. The amount of written off assets from this syndicate, that this managing

agent believed were sound, should on the straight arithmetic have covered 72% to 79% of the syndicate's losses. Upon information and belief, these assets should been enough to cover the Equitas Premium levied by Lloyd's on me for this syndicate.

67. Specialized insurance press reported at the time of R&R and shortly thereafter that when some secure reinsurances were revalued down or written off (at Lloyd's' direction), they were retained by their managing agents going forward and placed into new, post R&R syndicates to help attract new investors into those syndicates. The proceeds from these assets were supposed to have been paid to Equitas for my benefit and that of other Members bearing R&R liability on those of my syndicates on which, on information and belief, this happened.

68. *Mirabile dictu,* after R&R the managing agents, whose pre-R&R predecessor syndicates' third-party reinsurance payables had been written down or written off at Lloyd's direction, began reporting a windfall of reinsurance payouts from such supposed value-impaired assets. For example, the Ockham agency reportedly bragged after R&R about a reinsurance payout by Eagle Star, the composite reinsurer subsidiary of British American Tobacco. Ockham was reported to have taken post-R&R profit commission for the agency's own principals on this windfall to its post R&R Members, on reinsurance which had been bought to cover pre-R&R liability in my years, the proceeds from which should have been turned over to Equitas to cover the corresponding pre-R&R liabilities from my years which had been reinsured into Equitas.

69. The immediate post-R&R Ockham agency was the old Sturge agency, which was the managing agent for four syndicates in which I was an underwriter and which reported some of my worst losses. The Eagle Star windfall appears to have been

money taken pro rata out of my pocket, which, if the reinsurance had instead gone into Equitas (since they were paid under a reinsurance asset bought for a pre-R&R syndicate), would have reduced what Lloyd's claimed to be my Equitas Premium liability.

70. I submitted, upon information, my analysis of the "stripped assets" to the UK Court, as well. See §§ 25(b)-26 in Ex. P, and Part 31 Statement of Case § 4(b), dated February 24, 2004, a copy of which is Ex. Y.

R&R "Triple Profit Release" Future fees taken out of reserves in advance

71. Upon information and belief, Lloyd's allowed managing agents of syndicates, as part of R&R, to take three years of advance, future profit commissions out of the syndicates' reserves. This direction assumed a projected profit of the next three underwriting years which had not yet been closed, ("Triple Profit Release"). The Triple Profit Release reduced the cash reserves turned over to Equitas by about £1.5 billion. The R&R Settlement Offer Document (Ex. J) provided for recovery of this commission after R&R if the projected profit on those years of account subsequently materialized as actual loss. However, upon information and belief, the projected profit did not materialize on most of my syndicates and Lloyd's never recovered any of the Triple Profit Release from its insiders.

72. If Lloyd's had not allowed agents to take future commissions in advance as cash out of the projected Triple Profit Release, or had clawed back the advance fees from its insiders insofar as their syndicates' projected future profit had turned into actual loss, those funds would have been paid to the benefit of Equitas' reserves and would have reduced my Equitas Premium claimed by Lloyd's.

73. I submitted a statement on information of the Triple Profit Release to the Commercial Court. See Reply Witness Statement, §9, April 23, 2004, Ex. W.

Action Groups' Litigation Proceeds Confiscated by Lloyd's

74. Groups of Members from some of my syndicates brought legal actions against the managing agents of their syndicates and against some of their individual members' agents and, upon information and belief, made substantial recoveries. However, Lloyd's informed me that it obtained court judgments to obtain all the damages awarded as additional security for Equitas. There has been no accounting showing the amount of these proceeds, how much if any should be credited to me, or even whether Lloyd's has turned over the proceeds to Equitas or netted them out in book terms to reduce those syndicates' Members' Equitas Premium liability.

Funds Belonging To Me Paid To Equitas Without Reducing My Obligation to Lloyd's

75. Lloyd's and Equitas jointly issued to me a document entitled "Lloyd's Statement of Reinsurance" on December 27, 1997, a copy of which is Exhibit Z, which stated:

> "2. Your share of Syndicate assets transferred to Equitas valued as at 31 December, 1995: £269,893."

76. My syndicates had cash, cash-like, or other valuable assets such as investments and reinsurance from third parties as of September, 1996. All of those assets were paid to Equitas for the accounts of each Member of the syndicates. My share of those assets was £269,893.

77. My total Equitas reinsurance premium was £384,332. Since Equitas had received £269,893 of my property, I should have been liable only for no more than the Equitas Premium of £114,439.

78. On May 27, 2003, Equitas sent me its authoritative Statement of Reinsurance, which is identical to the original statement issued by Lloyd's. On the face of this statement, Equitas construes that I had paid £269,893 toward my reinsurance. On June 12, 2003, Equitas confirmed in writing that (i) it had in fact received this £269,893 on my behalf from my syndicates, and that (ii) it had received this amount in satisfaction of my Equitas Premium as cash, near-cash, and other actual assets. (Copies of the My 27th Statement and letters of June 12th and May 30th are Exhibit AA).

79. This was "real money." My R&R liability had already been satisfied by this amount, as Equitas confirmed. Nevertheless, the R&R "debt" alleged against me by Lloyd's in its claim did not reduce the purported "debt" by this amount.

80. Lloyd's answer to me when I made this claim was that my liability had originally been larger and that it already applied a credit in this amount to reduce it to the number claimed to be owing. I asked Lloyd's to show me their internal record of this calculation. It refused.

81. Lloyd's claim against me improperly gave no credit for the £269,893 that was concededly paid to Equitas on my behalf. I submitted evidence of this cash transfer for which I was not credited to the Commercial Court. See Reply Witness Statement, §6, April 23, 2004, Ex. W.

My share of £3.809 billion of the surplus on debt collections that Equitas assigned to Lloyd's as security for an advance of £285 million from Lloyd's

82. A critical part of R&R was the "R&R Assignment", a side deal in which Equitas had, a month after the R&R Contract, assigned back to Lloyd's the beneficial ownership of all of the R&R Equitas Premiums ("the RITC debts") as security for a £285 million pound advance Lloyd's made to Equitas. On the terms of the R&R Contract, the

RITC debts had been owed by Lloyd's members (and others) to Equitas itself as premium for the R&R reinsurance. A copy of the R&R assignment is Ex. AB.

83. On the terms of the R&R Assignment, Lloyd's was given a security interest in the collection of R&R premium "debts" to Equitas in order to fully repay, and thus to fully discharge, the cash advance Lloyd's had made to Equitas. Lloyd's had done this in order for Equitas to pass its September 1996 pro forma regulatory solvency tests with insurance regulators, for them to certify its starting reserves as "capital adequate". If Equitas was certified by the regulators as being robustly enough capitalized to "go live" as a standalone workout reinsurer, then Lloyd's could transfer its pre-R&R members' old long-tail and LMX IBNR liabilities off Lloyd's own books, off balance sheet onto Equitas instead. Lloyd's insiders could then proceed to recruit a new generation of investors with the pitch that "new Lloyd's" had been born again with a balance sheet cleansed of its old liabilities.

84. In bringing its claim against me (and other US members), Lloyd's claims that it was, under the R&R Assignment, seeking to collect for the Corporation itself. Contrary to the terms of the R&R Assignment, Lloyd's has not recognized any surplus above the funds it advanced to Equitas is owing to Equitas for its reserves. Not one penny of the collections which Lloyd's has induced American courts to enforce on its behalf in those cases has ever been destined for, nor in fact gone to, insurance claims reserves held by Equitas to cover environmental (including asbestos) long-tail liability. Those proceeds from American defendants in fact go, under the R&R assignment side deal, to the Corporation of Lloyd's, seemingly as pure windfall.

85. The amount that Lloyd's advanced to Equitas was £ 285 million. The amount that Equitas assigned back to Lloyd's was £ 3.8+ billion (an unauctioned "factoring" transaction at 7½¢ on the dollar). This is a surplus of ±£ 3.5 billion ($6-3/4 billion) above the amount which would fully repay, and thus on the terms of the R&R assignment would fully discharge, the advance that Lloyd's had made to Equitas.

86. Lloyd's collections in the US and other lawsuits it brought on R&R liabilities before bringing the claim against me may well have resulted in a full repayment of its advance to Equitas. Under these circumstances, on the terms of the R&R Assignment, Lloyd's security interest had already been fully discharged. Then on the face of the assignment, Lloyd's had no R&R claim left to bring against me, or anybody. It would certainly seem that Lloyd's was bringing that claim to get a windfall for itself above the level of that full discharge, rather than for Equitas to strengthen reserves to pay policy-holder claims.

87. In any event, insofar as Lloyd's has actually collected any of the surplus – which Lloyd's has denied while refusing to account for the funds it has collected – then Lloyd's should have applied my pro rata share of the surplus to reduce my alleged "debt" to it which it claimed for itself.

88. I submitted evidence of Lloyd's failure to credit me with any of the surplus from the R&R Assignment to the Commercial Court. See Reply Witness Statement § 5, April 23, 2004, pp. 3-4, of Ex. W.

Abuses in UK court's process without inquiry, sanction, or relief by court, to palpable cumulative prejudice of that process's integrity and his defense

89. In the UK court system's process, I experienced abuses by Lloyd's of which the court took no judicial notice, did not investigate or sanction, and were cumulatively prejudicial of the integrity of their system's process and of my defense:

- Spurious local service onto shell agent which purportedly accepted it for me as defendant but was in fact controlled by plaintiff, in reality service by Lloyd's onto itself, accepted by UK court even with knowledge that it had been a dummy controlled by the adversary side

- Failure of UK court to protect witnesses on true nature of shell agent from being subjected to aggressive witness tampering, coordination, and suppression of witness evidence; blatant "obstruction" uncorrected

- When Lloyd's told me I had to get defense documents from "my" own dummy agent, and I asked nominal representatives of that agent (who in fact were officers of Lloyd's) for the papers, its representatives could not give "my" defense file to me absent direction to them and approval by plaintiff's internal solicitors, the ones pursuing the claim against me

- My defense file supposedly held by "my" agent was actually in the physical possession of precisely those Lloyd's internal collectors, the plaintiff's staff who were aggressively driving the suit against me.

- Lloyd's was able to forum-shop for selected favorite judge to override the UK court's formal "fixing" process of listing hearings, quash my discovery hearing, preempt it with their summary judgment application.

- Their hand-picked judge worked off a deceptive incomplete evidence bundle unilaterally submitted by Lloyd's which prejudiced the listing direction he issued, but when so informed after, did not inquire as to what evidence of relevance of my discovery questions to my defenses had been withheld from him nor review his quashing of discovery.

- UK court permitted Lloyd's to ambush me procedurally into having only one business day and one weekend, not 4-8 weeks as their own summary judgment application had specified and on which I had relied, to prepare my decisive answer statement opposing summary judgment

- Court declined to protect intimidated potential defense witnesses again from (on information) anticipated witness tampering and coordination,

with result of suppression of prospective witness evidence in support of my defenses to help defeat Lloyd's' summary judgment application

- Refusal of arguability by me of the only defense issue which the UK court considered not to be precluded in law, in summary judgment hearing, was based on second deceptive incomplete evidence bundle unilaterally submitted by Lloyd's to court. Though known to court to have been prejudicially incomplete on exactly the issue on which judge focused, court did not inquire on suppression of document evidence from it, sanction plaintiff, or revisit decision refusing argument of issue.

I attach as Ex. AC my fuller description of each of these abuses of the integrity of the court's evidence process, which individually and in combination prejudiced that process against my defense, and without inquiry or relief from the court.

Commercial Court and Court of Appeals Rulings

90. On May 24, 2004, the Commercial Court of the Queens Bench Division of the UK High Court granted summary judgment against me on my defenses, stating that, under Lloyd's by-laws, I was bound, without the right to contest, by the numbers assessed by Lloyd's. A copy of the decision is Exhibit AD. The Court entered an Order (equivalent to a judgment in the United States) against me for the sum of £296,811.16 plus interest until May 24, 2004 of £167,070.12 for a total of £463,881.28, plus £16,000 in costs. A copy of the Order is Exhibit AE.

91. However, the court also indicated that any claim that I had could be prosecuted in my counterclaims. (See Exhibit AD at ¶21, 24). On November 2, 2004, the United Kingdom Court of Appeals denied me permission to appeal the summary judgment dismissing my defenses, again relying on my purported ability to assert my claims by means of my counterclaims. A copy of the decision is Exhibit AF.

92. I presented the same evidence (and more) to the Commercial Court in support of my counterclaims. Nevertheless, on November 5, 2004, the Commercial

court dismissed all of my counterclaims on the basis that Lloyd's immunity from damage claims under Lloyd's Act 1982 ("Lloyd's Immunity") applied to all of my counterclaims. A copy of the decision is Exhibit AG. I have been told that this is the first time any United Kingdom court has construed Lloyd's Immunity to apply to relief such as specific performance against Lloyd's in its private capacity as opposed to a suit for damages against Lloyd's in its capacity as regulator of insurance standards.

93. I also presented the same evidence on appeal to the Court of Appeals. On January 23, 2006, the Court of Appeals denied me permission to appeal dismissal of my counterclaims on the basis that Lloyd's Immunity applied not only to damages sought against Lloyd's, but also to claims for specific performance, i.e. an unwinding, disgorgement, recalculation, or restatement (all of which are functionally an accounting of the proper transactions between me and Lloyd's) on the grounds that those claims were just a constructive equivalent of the barred damages claims. A copy of the decision is Exhibit AH. No appellate court had previously applied Lloyd's Immunity so broadly.

94. The result was that I was deprived of any hearing on the substantial evidence to support my claims that I lost nearly $200,000, and my defenses that I was not liable for the nearly $800,000 judgment that Lloyd's was seeking against me- defenses that went to the propriety of the basic liability (my bearing risks that Lloyd's agreed that I would not incur) and to account properly for my money that Lloyd's concededly received but refused to apply to my credit.

Logic Chain Underlying Preclusion of My Issues and Evidence in Defense

95. The Commercial Court precluded me from arguing and gaining hearing of my issues and the evidence in support of them in defense by its deference to the R&R Contract's "conclusive evidence" clause -- and as a set-off to mitigate or abate the quantum of claim, to the "no set-off" clause., which is construed to preclude even equitable set-off (in NY law, recoupment). The Commercial Court, as well as all other UK courts considering R&R claims, treated the R&R Contracts as statutorily mandated in reliance on Lloyd's' Substitute Agent Bylaw and R&R Bylaw.

96. The UK courts impute statutory force to Lloyd's bylaws -- whether issued in performing its statutory "public functions" as a self-regulator exercising authority and powers that Parliament delegated to it, or issued as common corporate bylaws in its strictly private merely commercial capacity -- as if Lloyd's' bylaws were official agency regulations of the UK Government.

97. The legal logic chain which supports this position in UK law is unfamiliar to US law, and has never (to my knowledge) been explained to a US court in an R&R case. In crude summary, the steps in that chain are:

(1) UK jurisprudence is said by UK courts to rest on a foundation of "Parliamentary sovereignty and supremacy", with no *Marbury v Madison* doctrine of judicial review of statutes against overriding constitutional standards.

(2) Government agency regulations issued under authority granted to an agency by statute are considered by courts to carry authority as "statutory instruments" (aka "subordinate legislation", or "secondary legislation").

(3) UK public law has developed the regulatory concept of a private entity becoming a "hybrid body" to which, although that body remains "primarily private in nature", Parliament has delegated "public functions." A hybrid body is a commercial or a professional association to which Parliament has statutorily granted self-regulatory authority, privatizing a particular area of regulation in which that private entity acts as if it were an official Government agency ("public authority"). Under the Human Rights Act 1998 ("HRA") -- in which Parliament incorporated the European Convention for the Protection of Human Rights into domestic substantive UK law, as overriding basic law -- the citizen protections, disciplines, and duties in UK public law are intended to cover the acts of such hybrid bodies when performing their public functions, and exercising their statutorily delegated powers for that purpose. Interpretation Byelaw (No. 1 of 1983) [5 January 1983] provides at para 2, "the [statutory] Interpretation Act 1978 shall extend to ... every Lloyd's byelaw, which shall be deemed to be "subordinated legislation' within the meaning of the Act..."

98. The theory of Parliament and the UK courts in evolving this concept of privatized statutory self-regulation is symmetrical: the protections and disciplines of UK public law are supposed to pass to the "hybrid" private entity together with the statutory powers that Parliament had given it to exercise, to cover those of its acts done in its part-time statutory public capacity. These protections and disciplines create public-law duties to which the hybrid body is held.

99. Correspondingly with this theory, when acting in place of a public authority as a regulator exercising statutory public functions, such a private "hybrid" body's rules carry a force in UK law equivalent to that of agency regulations. In the UK's

administrative law ("(2)" above), this means that such a private entity's rules carry the force of statute, when it acts in its public capacity. And in Britain's jurisprudence ("(1)" above), a statute is unreviewable by the courts against any constitutional standard, which means in practice that an agency's regulations carry preclusive statutory authority in UK law.

100. The "punchline" when Lloyd's litigates against one of its members has been that Lloyd's bylaws are deferred to by the UK courts as in effect statutes enacted by Parliament. Under UK law, Lloyd's bylaws -- even when issued in Lloyd's strictly private capacity as a plain old corporation doing business -- are literally considered by UK courts to carry statutory force in law.

101. The net result is that **any** act done by Lloyd's in professed reliance on its bylaws -- such as the two bylaws above on the basis of which Lloyd's imposed the R&R Contract including its "conclusive evidence" clause mandatorily on all Lloyd's members, without their knowing or voluntary personal consent in fact -- is unchallengeable in the UK courts, whether in defense or counterclaim. That act, even when done in Lloyd's merely **private** commercial capacity is treated by the UK courts as in effect being as unchallengeable as an act of Parliament would be in a UK court. Lloyd's has expressly pleaded to UK courts, and the UK courts expressly have held, that R&R was a merely private commercial action in order to escape the duties a public agency would have under UK public law, and thus to escape UK judicial review under that body of law which would apply to protect citizens from wrongful acts by an official regulator.

102. US courts in the line of US Lloyd's R&R cases have commonly understood Lloyd's' R&R claims litigated in the UK to be familiar ones in simple contract, in form

seemingly just like the "plain-vanilla" commercial claims that a US judge sees every day. In fact, Lloyd's R&R claims are unique, quasi statutory claims with substantial differences in the way the UK courts treat those claims from the usual claim in contract.

103. Under UK contract law, UK courts have no hesitation reviewing what that law calls the "fact matrix" underlying a contract, in order to construe "the parties' intent in the agreement" and UK courts consider themselves to have a duty (in the usual claim in contract) to do so. Based on that, UK courts would routinely review on the facts whether a claim were ultra vires such underlying intent, or of particular terms in the contract. UK courts will do no such review of underlying intent or fact matrix, however, when a purported contract (in the case of the R&R Contract) is enforced in reliance on bylaws which carry statutory authority. Since that authority is preclusive in UK law of defenses against a claim made in reliance on it, UK courts not only consider the defendant as being precluded from arguing and relying on his defenses, but consider also ***themselves*** (See, Commercial Court's May 24, 2004 Decision granting Summary Judgment against me, Ex. AD,) as being precluded from granting argument to and hearing such defenses: from the process of "law" itself, of judicial review under law.

104. If defendants in Lloyd's UK R&R cases try to assert set-offs as defenses (as I did), the UK courts, just as the Commercial Court did in my case, consider those set-offs to be also precluded by the R&R Contract's "no set-off" clause. One effect in law is that most set-offs, albeit in theory available as separate causes of action if later brought as a separate claim rather than relied on as defenses to Lloyd's claim in set-off, are deflected by Lloyd's as time-barred under Limitation Act 1980. The practical result

is that most counterclaims are reportedly, by Lloyd's' own admission, barred from UK hearing and argument entirely.

105. Counterclaims, other than actual fraud are, even if brought timely within the UK statute of limitations, nevertheless precluded under the Lloyd's Act 1982 § 14(3) statutory immunity. This is exactly what happened to me. UK courts have construed this immunity to shield Lloyd's (and under § 14(6) to veil its officers and staff) from judicial review and relief even of Lloyd's acts in its mere private capacity, as just another commercial enterprise. The policy context of the Act and its legislative history shows that Parliament intended this immunity to be available only when Lloyd's is acting in its statutory "public functions" under public law, for which Parliament gave Lloyd's strengthened self-regulatory powers in the Act. See witness statement of Rt Hon Michael Meecher MP Ex. AI, which I submitted to the Court of Appeal.

106. § 14 facially precludes only rights of action in "negligence and other tort" (analogously to the US statutory shield which covers Federal regulators under the Federal Tort Claims Act). The UK courts in my case have construed it, however, to preclude not only claims in tort but also (a) all claims in contract, which are unmentioned anywhere in § 14, whether common law or statutory (such as the Unfair Contract Terms Act) (See Decisions of Commercial Court, Ex.s AD and AG); (b) all claims in misrepresentation, whether common law or statutory; (c) all claims for dishonest failure to disclose in alleged violation of the *uberrimae fidae* doctrine which is fundamental to the old English law of insurance, and (d) all other rights of action which otherwise are available to any **other** insurer or insured party under recent UK insurance statutes. What the UK courts have done in construing § 14 to shield Lloyd's and to veil Lloyd's'

individual controlling principals from UK judicial review and relief is to preclude Lloyd's members from asserting any claim other than actual fraud, whatever their source in UK law -- including statutory as well as common law, and even in equity. This is best illustrated by the UK judge who struck out my counterclaims based on the §14 immunity. The judge made a point of acknowledging that my claim of "deliberate avoidance" ("blind-eye knowledge") in making a dishonest insurance claim was (in UK insurance law) equivalent to "conscious avoidance" in US law. In US law, the CEOs of Enron and WorldCom are about to do prison time because of fraud convictions based on jury charges which were focused precisely on "conscious avoidance". In UK law, however, that judge deemed my claim of its UK equivalent "deliberate avoidance" **not** to rise above the hurdle of the §14 immunity, though fraud is exempted from preclusion by §14 on its face. Even after recognizing the equivalence of my plea to our "conscious avoidance", and acknowledging that in US law that is fraud, she held my claim in "deliberate avoidance" (inter alia) to be precluded as a cause of action from argument and hearing by the §14 immunity. (See Tropp Dec. Ex. AG).

107. In addition, § 14 facially precludes only the single remedy of damages, and the legislative history of § 14 makes it abundantly clear that Parliament deliberately narrowed the scope of the § 14 exemption as originally proposed to preclude the courts from considering and granting **only** that one remedy, while leaving open all other remedies in law and in equity. The UK Court of Appeal, however, has construed the term "damages" to include all relief with a substantive financial effect. They have construed this to also preclude, to Lloyd's members as against Lloyd's management, the remedies of injunction, of declaration, judicial review under public law, specific

performance on Lloyd's' statutory duties, and specific performance on contract (as well as, broadly, all other remedies in equity which would have financial consequences.

Petition to the House of Lords

108. On April 27, 2006, I petitioned the House of Lords to more narrowly construe the immunity under which the UK courts precluded argument of my counterclaims, after having first precluded argument of my defense issues:

> "Petit.'s defences and counterclaims were differentiated from other R&R cases by his pleading new fact issues and fresh sample evidence, never before produced to a court in the R&R cases, to show that par- ticulars of the quantum of the claim against him were untrue. His evidence presented Lloyd's' own internal syndicate-specific analyses of the liability which Lloyd's attributed to him in Claim Schedule H, on the numbers, at the disaggregated individual business unit level.
>
> "[My] evidence not only documented that Lloyd's statements to the court (in Schedule H and in Claim § 10...) were untrue, but also that his alleged liability on those syndicates was **not from "insurance business"** at all within the meaning of Lloyd's Act 1982 § 8 (Defence § 19), **nor from "reinsurance"** as understood in the industry, by ac- counting standard boards, and by UK and US regulators (Defence § 20).
>
> "Petit's evidence showed that when analyzed at a disaggregated level on the raw numbers, Lloyd's' claim was ultra vires of its statutory authority as well as of its contractual basic business model, ergo of the contract between the parties [Part 24 answer statement § 14].
>
> "His sample evidence was authoritatively credible as to facts: it was created within Lloyd's itself, including insurance regulatory and tax filings with UK and US Government agencies, and confidential internal R&R analyses of the origin of his particular syndicates' liabilities. These analyses were meant by Lloyd's management to be seen by their agents or official agencies, but not by their principals.... Petit. was prepared to show the court more at trial from e.g. Govt tax examiners' analyses of his long-tail syndicates, interviews with R&R-era syndicate run-off agents, other inside witnesses, and accounting standards board experts on insurance accounting.
>
> "[I] described to the [SJ] court what the sample evidence showed on those syndicates from which Lloyd's stated to the court that most of his liability came: "these syndicates' purported reinsurances are materially all **self-**

reinsurances, which would not meet any accounting standards test of being true `reinsurance' to an arms' length party ...." [Part 24 answer statement § 14(c)]. In UK (as in US) law, such liabilities do not meet accounting rules nor the statutory standards to be considered true "insurance" or "reinsurance": head "***Liabilities claimed were not in law "insurance": [because] not a fortuity, but inevitabilities...***" [Petit.'s CA supplemental skeleton of 28 Oct 2004 in defence, §§ 6-9; recapitulated in Comm Ct counterclaims strikeout skeleton §§ 117-120, and most recently in CA Grounds § 77].

"In law, such self-reinsurance liabilities... stated by Lloyd's to Petit. and to the court as being his were not insurance liability at all: they did not arise from "insurance business" within the sta- tutory meaning of the Lloyd's Act 1982, Marine Insurance Act 1906, Financial Standards and Markets Act (FSMA) 2000 and its predecessor insurance regulatory statutes, nor of the UK common law of insurance.
"On the facts, [my] sample evidence documented that the major loss syndicates whose liability had been stated by Lloyd's in its claim as his **materially had not existed at all** as going concern "businesses" in the years stated. The evidence showed that those syndicates had, up to a level of materiality of 98-99% of their purported business in those years, mostly been running their old balance sheets through their income statements as if the old business was new and "current", self-reinsuring the same old prior-year loss year after year -- while their agents had been "churning" redundant fees out of the corpus of claims reserves, multiple times on one original recycled transaction.

"Given the authoritative internal origins of Petit.'s fresh evidence, it not only showed the Comm Ct and the CA that Lloyd's' statements of his alleged "debt" were untrue, but it also credibly documented that Lloyd's made those statements **to the court** (in Aug 2002 to Dec 2005, under statement of truth), not only to him (in R&R through today), while Lloyd's management was for an absolute certainty in possession of internal inculpating knowledge that its statements were untrue.

"Though Petit.'s defence and counterclaims were distinguished from other R&R cases by his having produced his own fresh evidence, the Comm Ct treated him exactly the same in defence as all the other R&R defendants who had never produced **any**: it held his counterclaims to be precluded from arguability at trial by the R&R conclusive evidence clause, in reliance by the court on the R&R Byelaws; the CA agreed."

Lloyd's v Tropp, petition to House of Lords [24 Apr 2006] at § 17, on appeal from UK Court of Appeal's refusal of permission to appeal the strikeout of my counterclaims precluded under the § 14 immunity., Ex AJ.

109. On July 18, 2006, the House of Lords refused to hear my petition. A copy of the decision is Exhibit AK.

110. As a result, Lloyd's is now able to attempt to enter the Order as a judgment in a state or federal court in the United States. Representatives of Lloyd's and I have been engaged in discussions with respect to the Order. Lloyd's has threatened both in writing and orally to commence proceedings in New York to convert its United Kingdom Order into a judgment here and to enforce the judgment against me. A copy of Lloyd's e-mail so threatening me, dated January 16, 2007 is Exhibit AL.

Conclusion

111. Thousands of aggrieved Lloyd's members, including hundreds if not thousands of Americans, have pleaded for rescission of their original contract with Lloyd's. I have not. To the contrary, I rely on it, and am probably the first who asked the UK courts for redress in continuing reliance on it. It is Lloyd's who, in its R&R claim, sought to escape that contract; it is I who asked the UK courts not to get me out of it, but to enforce it: to require performance on it.

112. Thousands of aggrieved Lloyd's defendants in R&R cases sought discovery on a fishing expedition, in hopes that since Lloyd's had been too arrogant in relying on its imposition R&R "conclusive evidence" clause to bother to explain the calculations which supported its R&R claim against them, there must be something wrong behind the smoke. I embarked on no fishing expedition. I presented highly

particularized evidence, the fruit of over a decade's research trying to understand the numbers and structure. The UK courts still denied me a hearing by an ex parte forum-shopped process and treated me exactly the same as all the rest.

113. Without discovery, I presented to the UK courts some evidence which was created by Lloyd's itself internally only for its own insider agents or for representations to government agencies. As such this evidence authoritatively and robustly made showings that (a) the liability alleged against me by Lloyd's in its R&R claim was false, knowingly and willfully, and that (b) behind the smokescreen of the obscurely complex structure of R&R, a lot of my assets held in trust had been seized by Lloyd's and not only disappeared in cash, but also had not even been credited to reduce my purported liability. The UK courts refused by preclusion in law to let me argue that evidence and to hear it, first in defense, then again in counterclaim.

114. I am the first American R&R defendant to come before this Court with procedural clean hands, having formally exhausted my remedies in the UK process both in defense and post-judgment in counterclaim.

115. My experience -- and I all too keenly know how counterintuitive and implausible this must be to any US judge -- is that in the singular case of a venerable 350-year old institution, which the evidence suggests had gone "dirty", the UK courts simply were not up to following the facts "without fear or favor", as they are sworn to. They lacked the moral courage to do justice. The process which I experienced dishonors their system; it was a failure of "the rule of law". If you did not know it was England, but had the facts of my UK process recited to you blind, you would think it had

to have been some folkloric corrupted province of Russia, or an Indonesia, a Nigeria; it couldn't be England.

116. That's what I thought too; that's why I entrusted myself to their process for 3½ years' ordeal. What I lived was, a veneer of elaborately courteous ritual "hearing" by very intelligent people, masking a substance of brusquely harsh rebuff. Conscious avoidance, at a systemic level, which has allowed Lloyd's insider management to hide behind the preclusive law of its unique immunity to become "lawless".

117. What do I want from this court on this motion? What I was refused in the UK: due process in defense – to give me an opportunity to lift the 1700s-era life indenture that the UK courts summarily imposed upon me by their judgment of a lifelong future "debt" without end; to protect my home; and to restore and vindicate the good name that I had spent all of my adult life building, which Lloyd's has now disgraced with a malicious false claim on public record of a purported "debt" that on the facts is fiction, but against which I could not defend.

118. I declare, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge and belief.

Dated: New York, New York
April 30, 2007

Richard A. Tropp