ILLINOIS ATTORNEY GENERAL LISA MADIGAN

PRESS RELEASE

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For Immediate Release
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LIBERTY MUTUAL SUED IN BID-RIGGING INVESTIGATION

Chicago – Attorney General Lisa Madigan today filed a lawsuit against a large property and casualty insurance company, alleging that the company and its affiliates participated in a bid-rigging and business-steering scheme.

The civil complaint, filed today in Cook County Circuit Court, alleges that Liberty Mutual Insurance Company and seven affiliates violated the Illinois Consumer Fraud and Deceptive Business Practices Act by paying undisclosed contingent commissions to insurance brokers and agents to induce them to steer business to Liberty Mutual. Contingent commissions are payments that insurers pay to brokers and agents in addition to the base commissions. Contingent commission amounts generally are based on the volume and profitability of the business a broker or agent produces for an insurance company. Madigan’s investigation found that, because contingent commissions are based on volume and profitability, they encourage brokers and agents to improperly steer their clients to particular insurers in violation of the fiduciary duty they owe their clients.

The complaint also alleges that a Liberty Mutual affiliate company also participated along with several other insurers in a scheme led by Marsh & McLennan Companies, Inc. (Marsh), to rig bids for excess casualty insurance. The lawsuit alleges that Liberty Mutual also failed to disclose its affiliate’s role in the bid-rigging scheme.

“It is of great concern that one of the country’s largest insurance companies would rig bids and induce brokers and agents to breach their duties to their clients in the ways we have alleged in this lawsuit,” Madigan said.

In its lawsuit, the state seeks restitution for injured policyholders, civil penalties under the Consumer Fraud Act and an injunction that would bar Liberty Mutual from engaging in the alleged conduct in the future.

As an example of the conduct at issue in the lawsuit, the complaint alleges that, from 2001 through 2004, Marsh repeatedly solicited from Liberty Mutual’s affiliate and other insurers fake insurance bids – called “B quotes” – that were intentionally higher or otherwise less favorable to the customer in an effort to “support” or “protect” the bid of a favored insurer. Through this scheme, Marsh was able to deceive its clients into thinking that the insurance policies and premiums it offered were the result of true competition among insurers.

In August 2005, a former Liberty International Underwriters executive, Kevin Bott, pleaded guilty to criminal charges in New York in connection with his bid-rigging conduct while employed at LIU, stating that “[i]n many instances during this time period, brokers at Marsh instructed me to submit protect[ive] quotes on certain pieces of business where Marsh had predetermined which insurance carrier would win the bid…. I understood that such quotes were intended to allow Marsh to maintain control of the market and to protect the incumbent [insurer].” Bott understood that such quotes “had the effect of allowing Marsh to obtain property in the form of millions of dollars in commissions and fees from each of numerous policyholders and insurance companies.” In exchange, LIU received favorable treatment from Marsh in placing and renewing its excess casualty policies.

In one example of bid rigging cited in the complaint, two Marsh executives discussed the bidding on a client’s account in an internal e-mail: “I need a B quote from Liberty. I finally had AIG agree to write this thing [i.e., an insurance policy for a client] at $140,000. Have Liberty come in around $175,000.” This e-mail was then forwarded to Liberty with the message, “see below and I will talk to you later.” Ultimately, Liberty provided a bid of just over $200,000 and AIG got the business.

Earlier this year, the New York and Connecticut Attorney General’s offices filed similar complaints against Liberty Mutual based on their investigations of bid rigging and steering. Madigan has been working cooperatively with the Attorneys General of New York and Connecticut.

The Liberty Mutual lawsuit is part of the Illinois Attorney General’s wider investigation of the insurance industry, which began in late 2004. To date, Illinois has settled with several insurers and brokers, resulting in the recovery of tens of millions of dollars in restitution and penalties.

Public Interest Division Chief Benjamin Weinberg, Public Interest Division Deputy Chief Brent Stratton and Assistant Attorney General Mark Kaminski of the Special Litigation Bureau are handling the case for Madigan’s office.

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