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13 Attorneys for Plaintiffs

14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**
16

17 WILMINGTON SAVINGS FUND
18 SOCIETY, FSB, as successor in interest to
CHRISTIANA BANK & TRUST
19 COMPANY, as trustee for JOHN DOE
TRUST 1, JANE DOE TRUST 2, JOHN
20 DOE TRUST 3, JANE DOE TRUST 4,
JOHN DOE TRUST 5, JOHN DOE
21 TRUST 6, JANE DOE TRUST 7, JOHN
DOE TRUST 8, JOHN DOE TRUST 9,
22 JOHN DOE TRUST 10, JOHN DOE
TRUST 11, JOHN DOE TRUST 12,
23 JOHN DOE TRUST 13, JOHN DOE
TRUST 14, JOHN DOE TRUST 15, JOHN
24 DOE TRUST 16, JOHN DOE TRUST 17,
JOHN DOE TRUST 18, JOHN DOE
25 TRUST 19, JOHN DOE TRUST 20, JOHN
DOE TRUST 21, JANE DOE TRUST 22,
26 JOHN DOE TRUST 23, JOHN DOE
TRUST 24, JOHN DOE TRUST 25, JOHN
27 DOE TRUST 26, JANE DOE TRUST 27,
JOHN DOE TRUST 28, JOHN DOE
28 TRUST 29, JOHN DOE TRUST 30, JOHN
DOE TRUST 31, JOHN DOE TRUST 32,
JOHN DOE TRUST 33, JOHN DOE

Case No. 2:12-cv-04926-SVW-AJWx

Hon. Stephen V. Wilson

**[PROPOSED] FIRST AMENDED
COMPLAINT FOR**

- 1. **VIOLATION OF 18 U.S.C. § 1962(c) (RICO);**
- 2. **VIOLATION OF 18 U.S.C. § 1962(c) (RICO);**
- 3. **VIOLATION OF 18 U.S.C. § 1962(b) (RICO);**
- 4. **VIOLATION OF 18 U.S.C. § 1962(d) (RICO);**
- 5. **FRAUD;**
- 6. **DECLARATORY JUDGMENT;**
- 7. **BREACH OF CONTRACT;**

TRUST 34, JOHN DOE TRUST 35, JOHN
DOE TRUST 36, JANE DOE TRUST 37,
JOHN DOE TRUST 38, JOHN DOE
TRUST 39, JANE DOE TRUST 40, JOHN
DOE TRUST 41, JANE DOE TRUST 42,
JANE DOE TRUST 43, JOHN DOE
TRUST 44, JOHN DOE TRUST 45, JOHN
DOE TRUST, 46 JANE DOE TRUST 47,
JOHN DOE TRUST 48, JOHN DOE
TRUST 49, JOHN DOE TRUST 50, JOHN
DOE TRUST 51, JANE DOE TRUST 52,
JANE DOE TRUST 53, JOHN DOE
TRUST 54, JOHN DOE TRUST 55, JOHN
DOE TRUST 56, JANE DOE TRUST 57,
JOHN DOE TRUST 58, JANE DOE
TRUST 59, JOHN DOE TRUST 60

Plaintiffs,

vs.

PHL VARIABLE INSURANCE
COMPANY, PHOENIX LIFE
INSURANCE COMPANY, and THE
PHOENIX COMPANIES, INC.,

Defendants.

**8. CONTRACTUAL BREACH OF
THE IMPLIED COVENANT OF
GOOD FAITH AND FAIR
DEALING;**

9. PROMISSORY ESTOPPEL;

**10. VIOLATION OF THE
CONNECTICUT UNFAIR TRADE
PRACTICES ACT; AND**

**11. VIOLATION OF
CALIFORNIA'S UNFAIR
COMPETITION LAW**

JURY TRIAL DEMANDED

Plaintiffs John Doe Trust 1, Jane Doe Trust 2, John Doe Trust 3, Jane Doe
Trust 4, John Doe Trust 5, John Doe Trust 6, Jane Doe Trust 7, John Doe Trust 8,
John Doe Trust 9, John Doe Trust 10, John Doe Trust 11, John Doe Trust 12, John
Doe Trust 13, John Doe Trust 14, John Doe Trust 15, John Doe Trust 16, John Doe
Trust 17, John Doe Trust 18, John Doe Trust 19, John Doe Trust 20, John Doe Trust
21, Jane Doe Trust 22, John Doe Trust 23, John Doe Trust 24, John Doe Trust 25,
John Doe Trust 26, Jane Doe Trust 27, John Doe Trust 28, John Doe Trust 29, John
Doe Trust 30, John Doe Trust 31, John Doe Trust 32, John Doe Trust 33, John Doe
Trust 34, John Doe Trust 35, John Doe Trust 36, Jane Doe Trust 37, John Doe Trust
38, John Doe Trust 39, Jane Doe Trust 40, John Doe Trust 41, Jane Doe Trust 42,
Jane Doe Trust 43, John Doe Trust 44, John Doe Trust 45, John Doe Trust 46, Jane
Doe Trust 47, John Doe Trust 48, John Doe Trust 49, John Doe Trust 50, John Doe
Trust 51, Jane Doe Trust 52, Jane Doe Trust 53, John Doe Trust 54, John Doe Trust

1 55, John Doe Trust 56, Jane Doe Trust 57, John Doe Trust 58, Jane Doe Trust 59,
2 and John Doe Trust 60, by and through Wilmington Savings Fund Society, FSB, as
3 successor-in-interest to Christiana Bank & Trust Company, as trustee (“Plaintiffs”
4 or the “Trusts”)¹ allege as follows:

5 **NATURE OF THE ACTION**

6 1. PHL Variable Insurance Company (“PHL”), Phoenix Life Insurance
7 Company (“Phoenix Life”), and their parent the Phoenix Companies, Inc. (“PNX”)
8 (collectively “Defendants”) boast on their website that they have a “History of
9 keeping our promises since 1851.” Contrary to this self-serving assurance
10 Defendants provide to California residents and the general public, since in or about
11 2009 when Defendants’ financial position was devastated by the global financial
12 crisis and Defendants’ own grossly incompetent management of their financial
13 affairs, Defendants have broken their promises to policyholders at every opportunity
14 and perpetrated a widespread and massive fraud upon their policyholders.
15 Defendants have conspired and engaged in this fraudulent scheme in an effort to
16 ensure their own survival, thus placing their own interests above those of their
17 policyholders. By this action, Plaintiffs seek to recover damages from Defendants
18 for the financial harm caused by Defendants’ wrongful conduct and to enjoin
19 Defendants from engaging in such conduct in the future.

20 2. As detailed below, Defendants have conspired and secretly instituted a
21 scheme in which they will ultimately deny coverage under many *billions* of dollars
22 of life insurance policies issued by PHL and Phoenix Life, including the \$466.9
23 million in life insurance policies issued to Plaintiffs by PHL that is the subject of
24 this action. Defendants’ conduct presents an extreme and egregious example of
25 insurer bad faith. But Defendants have not stopped there. Desperate to continue

26 ¹ The Trusts are suing by fictitious names to protect the privacy of the
27 individual insureds who formed them and whose names the Trusts bear. The true
28 names of each Trust is known to the parties. Identifying information for the life
insurance policies issued to the Trusts (the policy number, issue date and face
amount) is alleged below.

1 profiting from policies they have no intention of ever honoring, Defendants have
2 engaged in a fraudulent and illegal pattern of racketeering activity in which they
3 have defrauded Plaintiffs and other policyholders into paying hundreds of millions
4 of dollars in premium revenue under policies that Defendants secretly plan to later
5 reject as being invalid. At all relevant times herein, Defendants have conducted the
6 affairs of PNX's Life and Annuity segment (the "Enterprise")² through a pattern of
7 racketeering activity that has systematically defrauded and continues to defraud
8 Plaintiffs and other policyholders.

9 3. Plaintiffs are life insurance trusts. Each Trust owns a life insurance
10 policy issued by PHL (the "Policies"). The total face amount of the Policies is
11 \$466.9 million. Each Trust was formed by the individual whose life is insured by
12 the Policy owned by that Trust for the purpose of owning an insurance policy on his
13 or her life. As was their right under the Policies and applicable law, the beneficiary
14 of each Trust (a family member of the insured) later sold his or her beneficial
15 interest in the Trust to a third party for consideration. Although such transactions
16 were permitted by the terms of the Policies and applicable law, and were actively
17 encouraged by Defendants when the transactions occurred, PHL, as part of a
18 fraudulent scheme and concerted effort with Phoenix Life and PNX, has: (i)
19 implemented a practice of denying benefits under similar policies, thus destroying
20 the Policies' value; (ii) engaged in a widespread and successful practice of
21 defrauding its policyholders into paying premiums on policies PHL does not intend
22 to honor; and (iii) breached the Policies and the contractual duty of good faith and
23 fair dealing implied therein in a concerted effort to intimidate Plaintiffs into
24 allowing their Policies to lapse for no consideration, so that Defendants can use the
25

26
27 ² As set forth below, Plaintiffs also allege an alternate enterprise, referred to as the
28 "Enterprise II," that includes both the Life and Annuity segment and a network of
third party, independent financial professionals and intermediaries who distribute
Defendants' life insurance and annuity products.

1 resulting windfall profit to try to rescue themselves from their own financial
2 mismanagement.

3 4. This course of conduct by Defendants has destroyed the economic
4 value of the Policies in this case and caused actual and current damages to Plaintiffs.
5 Indeed, many potential buyers will no longer purchase policies which were issued
6 by Defendants and others will only purchase Defendants' policies at drastically
7 reduced prices. Additionally, Plaintiffs continue to pay premiums to Defendants for
8 Policies which Defendants do not intend to honor.

9 5. Plaintiffs own the Policies and continue to be billed by and pay
10 substantial premiums to PHL. To date, PHL has collected more than \$44,000,000 in
11 premiums from Plaintiffs for the Policies. Despite continuing to charge and collect
12 premiums for the Policies, PHL's conduct, in concert with PNX and Phoenix Life,
13 has made clear that PHL has no intention of willingly paying claims under the
14 Policies when the persons whose lives are insured by the Policies ultimately die and
15 benefits become due. Instead, PHL, as part of a plan and scheme with Phoenix Life
16 and PNX, has engaged in a course of conduct of systematically denying claims for
17 benefits under policies owned by trusts when, as here, the beneficial interest in the
18 trust has been transferred to a third party for consideration. Specifically, when a
19 large death claim is submitted for payment by a trust, PHL refuses to promptly pay
20 the claim after receiving due proof of death – which is all that is required by the
21 terms of the policy for the death benefit to be paid. Disregarding its contractual and
22 legal obligations, PHL improperly and without any basis requires that the trust
23 complete a form requesting information about any transfer of the beneficial interest
24 in the trust and the identity of any new beneficiary. In classic “Catch-22” fashion:
25 (i) if the trust refuses to complete the form, PHL denies the claim; and (ii) if the trust
26 completes the form, and indicates a transfer has occurred, PHL denies the claim. In
27 short, if a transfer of the beneficial interest in the trust owning the policy has
28 occurred, PHL denies the claim on the purported (and erroneous) basis that, if a

1 transfer has occurred, the policy is what PHL considers to be a so-called investor-
2 originated life insurance (“IOLI”) policy and therefore, according to PHL, lacks a
3 valid insurable interest.

4 6. This practice of denying claims when a beneficial interest transfer has
5 occurred is part of Defendants’ practice of denying claims whenever an “investor”
6 has acquired either a policy issued by PHL or Phoenix Life or an interest in the
7 entity owning such policy. Indeed, Defendants’ practice extends to denying claims
8 under policies transferred to investors even when: (i) PHL or Phoenix Life explicitly
9 approved the transactions in advance; and/or (ii) PHL or Phoenix Life had
10 knowledge of the relevant transfer for years, yet continued to bill and accept
11 premiums.

12 7. PHL’s intention to not honor the Policies also is apparent from PHL’s
13 attempts to rescind five different life insurance policies owned by trusts for which
14 Wilmington Savings Fund Society, FSB (“Wilmington Savings”), as successor-in-
15 interest to Christiana Bank & Trust Company (“Christiana Bank”), serves as trustee
16 (including three of the Policies at issue here) on the ground that those five policies
17 purportedly lack an insurable interest due to transfers of the beneficial interest in the
18 trusts. PHL’s position is contrary to applicable law, which explicitly provides that
19 an insurable interest need only exist at policy inception and policies (and interests in
20 trusts that own policies) are freely transferable after inception. Moreover, Plaintiffs
21 are informed and believe that Defendants have identified the Policies as ones which
22 they later intend to have PHL challenge when a death claim is submitted.

23 8. As a further demonstration of PHL’s bad faith, when PHL denies
24 claims for benefits based on the transfer of a policy or beneficial interest, PHL not
25 only seeks to rescind the policy, but also attempts to confiscate and retain all of the
26 premiums collected for that policy. PHL’s practice is contrary to law as well as the
27 terms of PHL’s policies, which expressly state that PHL will return premiums in the
28 event that it successfully contests the policy’s validity. PHL’s practice also gives

1 Defendants an incentive to conceal PHL's true intentions from Plaintiffs and other
2 policyholders and bill and collect as much in premiums as possible before
3 challenging a policy's validity.

4 9. PHL's purported concern about IOLI not only is factually and legally
5 incorrect, particularly where, as here, the transactions complied with the Policies'
6 terms and applicable law, but it also is contradicted by Defendants' conduct. For
7 years, Defendants embraced the sale of their policies to investors on the same
8 "secondary market" that they now cite as a pretext for attempting to rescind policies.
9 Defendants knowingly issued policies for "resale" in the secondary market, and
10 encouraged their sales force to seek out such business, to boost Defendants' short
11 term profits, provide dividends for PNK's shareholders, and enrich Defendants'
12 management and sales force. Defendants' management encouraged employees to
13 "crank out" this type of business and "bring it on," stating "the more the merrier."

14 10. One former employee has candidly admitted that: (i) as much as 80%
15 of Defendants' life insurance business was what Defendants now denounce as IOLI;
16 (ii) Defendants' managers encouraged the solicitation of such business and taught
17 employees how to find such business; and (iii) PNK's CEO would have had to have
18 had a "learning disability" to not know that IOLI had become Defendants' core
19 business. Another former employee has admitted that: (i) his compensation rose
20 from \$75,000 in 2004 to \$1.8 million in 2006 as a result of the sale of policies
21 Defendants now denounce as IOLI; (ii) he generated as much premium revenue as
22 some entire life insurance companies due to the sale of such policies; (iii)
23 Defendants implemented sales quotas which were impossible to meet without
24 selling such policies; and (iv) it "doesn't take a rocket scientist to figure out what
25 was happening" in Defendants' life insurance operations. Defendants succeeded in
26 becoming a primary seller in the lucrative and burgeoning secondary market.
27 Defendants also became an active buyer of policies on the secondary market,
28 forming a subsidiary, Phoenix Life Solutions, dedicated to the purchase and

1 origination of policies on the secondary market.

2 11. Now, however, because of Defendants' dire financial situation and
3 concern that they will be unable to meet contractual obligations as they become due,
4 Defendants no longer embrace the secondary market, and instead routinely deny
5 coverage and seek to rescind policies their policyholders sold to investors on the
6 pretext that such policies lack an insurable interest. Defendants' changed financial
7 circumstance, rather than any good faith concern about the legitimacy of the policies
8 Defendants eagerly marketed and knowingly issued, is the motivation for
9 Defendants' improper attempts to avoid their contractual obligations.

10 12. Defendants have wrongfully decided they will not honor the Policies
11 and other similar policies and conspired to commit a brazen fraud upon Plaintiffs
12 and other policyholders. The purpose of this scheme is to defraud Plaintiffs and
13 other policyholders into continuing to pay premiums for policies that PHL has no
14 intent of honoring. By doing so, PHL continues to generate substantial premium
15 revenue which, in turn, gives the investing public the false impression that
16 Defendants' financial position is more sound than it is in fact. Defendants' scheme
17 also is designed to maximum the premiums collected before PHL denies a claim,
18 attempts to rescind the Policy and seeks to retain premiums.

19 13. In furtherance of Defendants' fraudulent scheme, Defendants have
20 represented to Plaintiffs and other policyholders, including policyholders in
21 California, that their policies are in force and in good standing while concealing
22 Defendants' true intention to deny coverage and attempt to confiscate premiums.
23 Despite secretly planning to deny coverage under the Policies, Defendants have
24 conspired to defraud Plaintiffs into continuing to pay premiums by having PHL mail
25 and/or fax Plaintiffs fraudulent communications indicating that the Policies are valid
26 and in force while concealing PHL's true intentions. PHL has sent Plaintiffs
27 hundreds of such fraudulent communications, including premium notices, annual
28 summaries, policy illustrations, verifications of coverage, and responses to Policy

1 audit requests. Defendants’ illegal scheme has reaped hundreds of millions of
2 dollars from policyholders, including tens of millions of dollars from Plaintiffs.

3 14. After fraudulently inducing Plaintiffs and other policyholders into
4 paying hundreds of millions of dollars in premiums for policies that Defendants do
5 not intend to honor, Defendants have engaged in a concerted effort to force the same
6 policyholders to lapse their policies, so that Defendants can retain the ill-gotten
7 premiums without having to deny coverage and try to defend their actions in court.
8 In pursuit of this goal, PHL has taken several actions directly breaching the terms of
9 the policies and violating its contractual duty of good faith to Plaintiffs and other
10 policyholders.

11 15. PHL has breached the Policies by impermissibly raising the cost of
12 insurance (“COI”) charges for the Policies. PHL also has breached the Policies by
13 impermissibly attempting to restrict Plaintiffs’ contractual right to transfer the
14 Policies and the right to transfer the beneficial interests in the Plaintiff Trusts. PHL
15 has taken these actions as part of a plan by Defendants to intimidate Plaintiffs and
16 other policyholders into allowing their policies to lapse.

17 16. Each of the Policies is a premium-adjustable, universal life insurance
18 policy. The principal benefit of such policies is that, unlike whole life insurance,
19 universal life insurance allows the policyholder to pay the minimum amount of
20 premiums necessary to keep the policy in-force; the premiums paid need only be
21 sufficient to cover the COI charges and certain other specified expense charges.
22 Any premiums paid in excess of the COI charges and expense components are
23 applied to a policy’s “accumulated value” or “policy value,” which earns interest.
24 Defendants promoted these flexible-premium policies as “appropriate for those
25 looking to minimize long term insurance costs” because they “present the
26 opportunity to pay lower premiums, as well as adjust the amount and timing of
27 premium payments.”

28 17. Having marketed such policies as enabling policyholders to minimize

1 their premium payments and keep policy values as low as possible, Defendants now
2 are trying to punish Plaintiffs and other policyholders for doing so. PHL and
3 Phoenix Life have drastically increased their COI rates where policyholders have
4 exercised their contractual right to keep accumulated policy values low. This
5 behavior by PHL and Phoenix Life is a breach of the express terms of the insurance
6 contracts, as well as bad faith conduct in furtherance of Defendants' overall scheme
7 and campaign to destroy the value of policies and intimidate policyholders into
8 lapsing their policies.

9 18. As California courts have recognized, it is illegal for an insurer to base
10 COI increases on anything other than the factors specified in the policies. *See, e.g.,*
11 *In re Conseco Life Ins. Co. Life Trend Ins. Mktg. & Sales Practice Litig.*, No. C 10-
12 02124 SI, 2012 WL 2917227 (N.D. Cal. July 17, 2012); *Yue v. Conseco Life Ins.*
13 *Co.*, No. CV 08-1506 AHM (JTLx), 2011 WL 210943 (C.D. Cal. Jan. 19, 2011).
14 By raising COI rates based on accumulated policy values, PHL has breached the
15 Policies. Additionally, the Policies expressly prohibit PHL from discriminating
16 unfairly within any class of policyholders with respect to COI rates. Yet, PHL has
17 publicly admitted that its COI increases are directed only at a certain subset of
18 policies within the same class.

19 19. PHL's COI increases were done in bad faith and for a prohibited
20 purpose. By increasing COI rates based on accumulated policy value, PHL is
21 attempting to force Plaintiffs and other policyholders to either pay excessive
22 premiums which will not justify the death benefit or lapse their policies and forfeit
23 the premiums to PHL. This is a quintessential example of insurer bad faith.

24 20. PHL also has unlawfully, and in violation of the Policies' terms, sought
25 to restrict Plaintiffs' ability to transfer the Policies or interests in the Trusts. The
26 Policies expressly state that the Trusts have the right to transfer or assign the Policy.
27 This is an important and valuable feature of the Policies which was marketed by
28 PHL and its agents. The Policies do not restrict or dictate the circumstances in

1 which beneficial interests in the entities owning the Policies can be transferred.
2 Nevertheless, and contrary to the terms of the Policies, PHL has demanded that it be
3 advised of, and approve, any transfers of beneficial interests in the Trusts and
4 threatened to deny coverage if transfers are made without its approval. PHL's
5 conduct is a breach of both the express terms of the Policies and the contractual
6 covenant of good faith and fair dealing implied therein.

7 21. PHL and Phoenix Life routinely deny requests to change the ownership
8 of policies even though the policies expressly permit ownership to be changed at
9 any time. Plaintiffs are informed and believe, and upon such information and belief
10 allege, that PHL and Phoenix Life have done so in a deliberate and wrongful attempt
11 to destroy the value of PHL and Phoenix Life policies on the secondary market.
12 Numerous policyholders have sued PHL and Phoenix Life over such conduct.

13 22. Defendants have, in effect, declared "war" against PHL's and Phoenix
14 Life's policyholders. Defendants engage in a self-serving strategy in which they
15 attempt to cast PHL and Phoenix Life policyholders as villains and themselves as
16 victims who innocently issued policies they do not intend to honor. Among other
17 things, PHL files objectively baseless separate actions on individual policies in the
18 hope that PHL can persuade the court that it was tricked into issuing the policy. In
19 truth, the policies Defendants now label "IOLI" were Defendants' *core business* for
20 several years. PHL and Phoenix Life issued *billions* of dollars of the policies which
21 Defendants now claim are illegal. These policies enriched Defendants' executives
22 and sales force, and comprised the core of Defendants' life insurance business.
23 Defendants cannot in good faith contend that they did not intentionally market and
24 issue policies which Defendants knew would be sold to investors on the secondary
25 market, or owned by trusts in which the beneficial interest would be sold to
26 investors.

THE PARTIES

1
2 23. Wilmington Savings, as successor-in-interest to Christiana Bank, as
3 trustee for Plaintiffs, is a Delaware citizen which has its principal place of business
4 at 500 Delaware Avenue, Wilmington, DE 19801. Each Plaintiff is a life insurance
5 trust that owns a life insurance policy issued by PHL.

6 24. Upon information and belief, PHL is a corporation organized under the
7 laws of the State of Connecticut, with its principal place of business located in
8 Hartford, Connecticut. At all relevant times herein, PHL was and is licensed to
9 transact, and was transacting, insurance business in the State of California and this
10 judicial district. PHL's designated agent for service of process in California is
11 located in this judicial district. PHL is an indirect wholly owned subsidiary of
12 Phoenix Life.

13 25. Upon information and belief, Phoenix Life is a corporation organized
14 and existing under the laws of New York, having its principal place of business in
15 East Greenbush, New York. At all relevant times herein, Phoenix Life was and is
16 licensed to transact, and was transacting, insurance business in the State of
17 California and this judicial district. Phoenix Life's designated agent for service of
18 process in California is located in this judicial district. Phoenix Life is a wholly
19 owned subsidiary of PNX.

20 26. Upon information and belief, PNX is a publicly traded Delaware
21 corporation and a holding company. PNX's principal operating subsidiaries,
22 Phoenix Life and its indirect subsidiary PHL, provide life insurance and annuity
23 products in California and this judicial district. PHL and Phoenix Life are part of
24 the PNX operational business segment known as the "Life and Annuity segment."

JURISDICTION AND VENUE

25
26 27. This Court has federal question jurisdiction pursuant to 28 U.S.C.
27 § 1331 because this Complaint alleges claims for relief arising under the Racketeer
28

1 Influenced and Corrupt Organizations (“RICO”) law, 18 U.S.C. §§ 1962 (b), (c) and
2 (d).

3 28. This Court has personal jurisdiction over defendants PHL and Phoenix
4 Life, as among other reasons, they are licensed to issue insurance coverage in
5 California, have availed themselves of courts in California (including courts in this
6 judicial district) by filing lawsuits in which they allege that they have contracted
7 with agents and transacted business in California, and have made continuous and
8 systematic contacts with California. This Court has personal jurisdiction over
9 defendant PNX because, among other reasons, its principal operating subsidiaries,
10 Phoenix Life and its indirect subsidiary PHL, are licensed to issue insurance
11 coverage in California and because PNX has made continuous and systematic
12 contacts with California. PHL, Phoenix Life and PNX’s insurance agency Saybrus
13 Partners, Inc. (“Saybrus”) are all registered to do business in California and have
14 designated an agent for service of process within this judicial district. PNX’s
15 website boasts that, through PHL, Phoenix and Saybrus, PNX is authorized to
16 conduct and conducts business in California. PHL issued many of the Policies: (i)
17 to trusts formed in California within this judicial district; (ii) on the lives of
18 California citizens who reside within this judicial district; and/or (iii) through
19 licensed and appointed California agents of PHL and Phoenix Life doing business
20 within this judicial district.

21 29. Venue is proper in this District under 28 U.S.C. § 1391(b)(1) because
22 all of the Defendants reside within California for venue purposes under 28 U.S.C.
23 § 1391 (c)(2) and at least one (indeed, all) Defendants reside in this District. Venue
24 is proper in this District under 28 U.S.C. § 1391(b)(2) because, among other reasons,
25 a substantial part of the events giving rise to the claims occurred in this District.
26 PHL issued many of the Policies: (i) to trusts formed in California within this
27 judicial district; (ii) on the lives of California citizens who reside within this judicial
28 district; and/or (iii) through licensed and appointed California agents of PHL and

1 Phoenix Life doing business within this judicial district. Plaintiffs are informed and
2 believe, and upon such information and belief allege, that those California agents
3 also prepared or assisted in many of the fraudulent communications alleged herein.

4 **FACTUAL ALLEGATIONS**

5 **Defendants**

6 30. PNX is a holding company whose subsidiaries sell life insurance,
7 annuities, and other products. PNX's 2011 Annual Report describes two distinct
8 operational business segments: a "Life and Annuity segment" and a "Saybrus
9 segment." The two principal life insurance company subsidiaries of PNX, which
10 sell products for the "Life and Annuity segment," are PHL and Phoenix Life.

11 31. Because PNX is a holding company, its ability to meet its obligations
12 and to pay shareholder dividends is dependent upon dividends and other payments
13 received from PHL, Phoenix Life and other operating subsidiaries. Based upon
14 public filings, Phoenix Life pays dividends directly to PNX, and PHL pays hundreds
15 of millions in fees to Phoenix Life annually which, in turn, are used to fund Phoenix
16 Life's dividend payments to PNX. Thus, the financial success of PNX, and its
17 ability to pay shareholder dividends, is directly tied to and dependent on the
18 financial success of PHL and Phoenix Life.

19 32. Plaintiffs are informed and believe, and upon such information and
20 belief allege, that Defendants' life insurance business declined during the years prior
21 to 2004. In order to grow their business, gain profit for their shareholders, enrich
22 their management, and earn bonuses for their sales force, Defendants needed to find
23 a way to compete with larger, more established insurers in the most profitable
24 market segments. Defendants' primary target market was selling high face value
25 policies to wealthy, elderly insureds because such policies generated premiums that
26 were significantly larger than the premiums generated by the policies sold in the
27 markets Defendants traditionally had serviced. The burgeoning "secondary market"
28 for life insurance, and the increased demand for large life insurance policies among

1 the senior population, provided the opportunity Defendants needed to enter and
2 compete in the market they coveted.

3 **The Secondary Market For Life Insurance**

4 33. For decades, the life insurance industry paid relatively few death claims
5 because the majority of life insurance policies lapsed (*i.e.*, the policy owner ceased
6 paying premiums) before the insured's death. The primary reason for a policy
7 owner to let a policy lapse was that, after owning a policy for some amount of time,
8 the owner no longer was able to, or no longer wanted to, continue paying
9 premiums. Before the development of a "secondary market" for life insurance
10 policies, an insured's only alternative to paying premiums or letting a policy lapse
11 was to surrender the insurance policy to the insurer for a modest cash value, thus
12 relinquishing a potentially valuable asset for little or nothing. Insurers received a
13 tremendous windfall as they collected premiums yet infrequently paid death
14 benefits. This state of affairs resulted in a tremendous windfall to insurers, as they
15 were able to retain premiums paid by all policyowners while only infrequently
16 paying out death benefits.

17 34. The secondary market developed as a direct response to this imbalance
18 of power between insurers and policyholders. Investors who purchase policies from
19 insureds in the secondary market provide insureds with an option to sell their
20 policies to investors rather than simply surrendering their policies to the insurer or
21 letting the policies lapse. According to a recent GAO report, policy owners who
22 sold their policies on the secondary market received approximately eight times the
23 cash surrender value that they would have received from their insurers.

24 35. Additionally, insureds often form insurance trusts for the purpose of
25 owning insurance policies on their lives and name themselves or family members as
26 the beneficiaries of such insurance trusts. When a policy is owned by an insurance
27 trust, the insured and his or her family have the option of later selling their interests
28 in the trust (as opposed to the policy) on the secondary market.

1 36. Although some insurers, as a scare tactic, have characterized the
2 secondary market for life insurance policies as “wagering on human life,” the
3 secondary market provides an important service to insureds: a means by which to
4 sell a valuable asset (an insurance policy or an interest in an insurance trust) and
5 thus monetize their policy or interest in a way that best serves their needs and
6 benefits their families. Insurers who object to the secondary market are motivated
7 solely by their own bottom line, not any professed concern regarding “wagering.”
8 An investor who buys a policy on the secondary market or an interest in the trust
9 that owns such policy is unlikely to let the policy lapse. Thus, when a policy or
10 interest in an insurance trust is sold to an investor, the insurer is more likely to have
11 to pay the death benefit. Insurers who dislike the secondary market do so because it
12 ensures they will have to honor their promise in the insurance policies they issue –
13 pay death benefits for which they have received premiums.

14 37. Plaintiffs are informed and believe, and upon such information and
15 belief allege, that, in or around 2004-2005, the life insurance industry began to
16 experience significant growth in the marketing and sale of high face amount policies
17 on the lives of wealthy seniors. These policies were significantly more expensive
18 than most policies and, correspondingly, generated significantly more premium
19 revenue for the insurer. Plaintiffs are further informed and believe, and upon such
20 information and belief allege, that, this growth was primarily attributable to the
21 expansion in the secondary market. The knowledge that a policy could potentially
22 be sold for a profit, rather than lapsed or surrendered to the insurance company, led
23 many seniors to purchase policies as an investment that could potentially be sold for
24 a profit and benefit their family. The fact that the growth in the secondary market
25 was driving increased demand for high face amount policies insuring the lives of
26 seniors was commented upon frequently within the insurance industry and was well
27 known to all major life insurers. Similarly, the fact that insureds were forming trusts
28 to own insurance policies on their lives, with the possibility that the beneficial

1 interest in the trusts would later be sold, also was well known and frequently
2 discussed in the insurance industry.

3 38. This increased demand by seniors for large face amount policies which
4 could be sold to a third party on the secondary market provided insurers with an
5 opportunity for significant revenue. However, because such policies were unlikely
6 to lapse or be surrendered, certain insurers believed the policies ultimately would
7 not be profitable and decided not to sell them. As early as 2005, certain life insurers
8 had developed pejorative terms, such as IOLI, to describe life insurance policies
9 which they believed were being procured for the purpose of resale to investors.

10 39. By contrast, other insurers, including PHL and Phoenix Life, were
11 eager to obtain a share of the premium revenue from the increased demand for high
12 face amount policies insuring the lives of seniors. These insurers actively embraced
13 the secondary market and the underlying transactions. Defendants were among the
14 insurers who most eagerly embraced the new potential revenue available as a result
15 of the secondary market.

16 40. To increase their sales in the affluent senior market and fully capitalize
17 on the potential new sales the secondary market offered, certain insurers like PHL
18 and Phoenix Life, and their agents, promoted and marketed several types of
19 transactions which made it easier for insureds to procure policies with the possibility
20 of resale, thus increasing sales and premium revenue for the insurer. For instance,
21 many of the policies sold by PHL, Phoenix Life and other insurers were financed
22 through an arrangement called non-recourse premium financing. Under such an
23 arrangement, a lender would loan the insured funds to pay premiums in exchange
24 for the insured pledging the policy as the sole collateral for the loan. When the loan
25 expired, usually 24 to 27 months after policy issuance, many insureds would elect to
26 transfer ownership of the policy to the lender. These arrangements were known in
27 the insurance industry and heavily marketed by insurers like PHL and Phoenix Life
28 because they: (i) allowed insureds to purchase large policies without any cash

1 outlay; and, (ii) in turn, allowed the insurers to sell more and larger policies.

2 41. Another option that arose was for an insured to establish a life
3 insurance trust to own a policy on his or her life and name a family member as the
4 beneficiary of the trust, thereby giving the beneficiary the option of selling his or her
5 beneficial interest to an investor. Such transactions could lawfully be accomplished
6 in many states, like California, and were encouraged and promoted by insurers, like
7 PHL, Phoenix Life and their agents.

8 42. Still another option that insurers like PHL and Phoenix Life gave to
9 insureds was the utilization of an annuity purchased with loaned funds to finance the
10 premiums for a life insurance policy. Under this type of arrangement, the annuity
11 would be sufficient to pay the premiums and interest to the lender, and the death
12 benefit would later be divided by the insured and the lender.

13 43. Due to these various arrangements, in which investors were likely to
14 obtain an interest in the policy proceeds, insurance companies like PHL and Phoenix
15 Life were able to sell a larger number of high face value policies and thus
16 significantly increase their premium revenue and PNX's revenue. Defendants were
17 fully aware of these various transactions and actively promoted them through their
18 agents and sales force.

19 **Defendants Embrace And Profit From The Secondary Market**

20 44. During the time period from 2005 to 2007, Defendants engaged in an
21 aggressive campaign to sell high face amount policies to elderly insureds in order to
22 generate high premium revenue. Upon information and belief, Defendants even
23 encouraged their agents to ask elderly insureds to purchase even larger policies than
24 they had initially applied for so as to increase the premium revenue paid to
25 Defendants. Upon information and belief, Defendants' products were priced such,
26 and issued in such large face amounts (often at Defendants' urging), that resale of
27 the policies was virtually inevitable.

28 45. Defendants were not, as they now claim, actually concerned whether

1 the policies they would issue were likely to be sold into the secondary market after
2 issuance. To the contrary, because Defendants wanted to increase their premium
3 revenue, Defendants actively solicited insurance agents and other producers to offer
4 life insurance products that were likely to be sold into the secondary market.
5 Specifically, Defendants sought out and recruited agents with connections to non-
6 recourse premium finance programs, the capital markets, investment banks, and
7 other potential buyers of life insurance policies on the secondary market, because
8 Defendants knew such agents could generate much higher premium revenue than
9 other agents and could gain Defendants access to buyers wishing to later to sell their
10 policies on the secondary market.

11 46. One former employee of Defendants, James Michael Max Labar,
12 testified that although PNX's CEO sometimes made self-serving statements to
13 shareholders that Defendants were not selling so-called IOLI, "privately it was a
14 different matter" as Defendants' employees were told to "bring it on" and "crank it
15 out." Defendants' regional sales managers encouraged employees to seek out so-
16 called IOLI business from insurance agents, explaining "that's where you're going
17 to make the money." Employees who refused to participate in seeking out this
18 business would either "fail," "leave" or "be fired." Mr. Labar admitted under oath
19 that approximately 80% of Defendants' life insurance sales during the relevant time
20 period were likely what Defendants now call IOLI and that this practice was so
21 "blatant" that PNX's CEO and Defendants' upper management would have had to
22 have had a "learning disability" to not know that Defendants' life insurance business
23 was largely IOLI.

24 47. Defendants were concerned only with generating as much premium
25 revenue as possible through the sale of expensive life insurance policies on the lives
26 of elderly individuals. As part of their plan to capture market share in the
27 burgeoning market, Defendants solicited producers to offer products that many other
28 insurers would have considered IOLI. Defendants' goal was to maximize premium

1 revenue, which in turn would enrich their management and generate bonuses for
2 their agents, sales force and personnel. On information and belief, the increased
3 premium revenue also was intended to create an appearance to the investing public,
4 rating agencies, and prospective policyholders, including Plaintiffs, that Defendants
5 were growing and keeping pace with their competitors. In reality, such premium
6 revenue was attributable to the sale of policies like the ones sold to Plaintiffs, which
7 Defendants now disavow.

8 48. As a result of Defendants' embracement of the secondary market,
9 PHL's and Phoenix Life's life insurance sales increased dramatically in 2005, which
10 Defendants acknowledged was a direct result of their having accepted significant
11 amounts of one form of business which they now characterize as IOLI: namely, non-
12 recourse premium financing. The head of Defendants' life insurance sales told
13 employees that Defendants' business philosophy with respect to policies sold
14 pursuant to non-recourse premium financing was "the more the merrier."
15 Defendants even created a "user guide" related to non-recourse premium financing,
16 which detailed different programs available so that their employees could best take
17 advantage of this market.

18 49. Even after many of their competitors denounced non-recourse premium
19 financing as IOLI, Defendants continued accepting such business and, even after
20 deciding to stop accepting future non-recourse business, Defendants
21 "grandfathered" significant amounts of pending non-recourse business so as to be
22 able to gain the significant premiums from the pending business and boost
23 Defendants' own financial position. Although Defendants ultimately ceased
24 accepting non-recourse premium financing business, they continued to actively seek
25 and accept other applications for policies which they believed were likely to be sold
26 to investors.

27 50. Defendants' life insurance sales continued to increase dramatically in
28 2006 and 2007. This increased business was directly tied to Defendants' and their

1 agents' heavy marketing and solicitation of business which they now claim was
2 impermissible IOLI. Upon information and belief, the majority of new premium
3 revenue that Defendants earned in 2005-2007 came from policies later sold to
4 investors or owned by entities in which investors later purchased interests. In
5 several instances, Defendants sold hundreds of millions of dollars of such policies
6 through individual agents. Defendants sold many billions of dollars worth of
7 policies they now characterize as being IOLI.

8 51. One of Defendants' former employees, Ed Humphrey, testified
9 regarding this explosion in sales created by Defendants actively and aggressively
10 selling policies destined to be sold on the secondary market. Mr. Humphrey
11 testified that he was required to meet a \$2 million quota for premiums generated in
12 2005. Due to Defendants' marketing and solicitation of policies sold using non-
13 recourse premium financing, Mr. Humphrey was able to generate \$7.5 million in
14 premiums, nearly four times his \$2 million quota. According to Mr. Humphrey's
15 testimony, policies sold using non-recourse premium financing accounted for at
16 least 90 percent of his business. Defendants raised Mr. Humphrey's quota to \$8
17 million in premiums for 2006. By continuing to bring in business which had all of
18 the "earmarks" of policies which were likely to be sold into the secondary market,
19 Mr. Humphrey alone generated *\$36 million* in premium in 2006. Mr. Humphrey's
20 \$36 million in premium was more than the total premium generated by several top
21 100 life insurance companies. Defendants raised Mr. Humphrey's premium quota
22 to \$20 million in 2007, which he met again. As Mr. Humphrey explained, the
23 quotas set by Defendants for their employees were impossible to meet without
24 selling policies intended to be sold in the secondary market (*i.e.*, policies Defendants
25 now denounce as IOLI). As Mr. Humphrey aptly put it, it "doesn't take a rocket
26 scientist to figure out what was happening" at PNX and its subsidiaries PHL and
27 Phoenix Life.

28 52. Plaintiffs are informed and believe, and upon such information and

1 belief allege, that, in order to support its sales efforts in the senior market and
2 maximize the issuance of high face value policies to seniors, PHL deliberately
3 relaxed and disregarded its underwriting standards and requirements, and pressured
4 its underwriters to approve policies, so that PHL could generate as much premium
5 revenue as possible. Plaintiffs are further informed and believe, and upon such
6 information and belief allege, that, PHL did not care about the accuracy of
7 application information submitted by its agents, or about obtaining additional
8 information or follow-up, because it was entirely indifferent to such information.
9 Rather, PHL cared only about receiving premiums by having policies approved and
10 issued. This “anything goes” underwriting philosophy by PHL extended not only to
11 issues regarding the potential future sale of the policy (which PHL encouraged), but
12 also to issues related to potential insureds’ financial and medical status. Indeed,
13 Defendants’ “aggressive underwriting” was even commented on by financial
14 analysts, who noted that Defendants were likely approving policies their competitors
15 would not in order to compensate for Defendants’ comparably low financial ratings.

16 53. This consciously lax underwriting by PHL went hand-in-hand with its
17 aggressive sales approach in the lucrative senior market. An insurer who performs
18 rigorous underwriting must reject a high percentage of applications and thus
19 sacrifice short term profits for long term stability. PHL had no interest in such an
20 approach, as it cared only about generating significant premium revenue so that it
21 could boost its short term profits, improve its financial ratings, and enrich its
22 management and sales force. Its goal was to sell as many large policies as possible
23 and its deliberately relaxed, permissive, and inattentive underwriting was an
24 essential part of that strategy.

25 54. PHL’s underwriters either did not care about whether or not the policies
26 being issued by PHL would later be sold on the secondary market, or they
27 succumbed to Defendants’ marketing pressure and disregarded such information.
28 PHL’s underwriters disregarded potential “red flags” that might have caused other

1 insurers, who did not wish to participate in the market, to decline policies. Plaintiffs
2 are further informed and believe, and upon such information and belief allege, that
3 PHL's underwriters were under tremendous internal pressure to approve large
4 policies and risked reprimand and possible dismissal if they rejected a policy and
5 thus cost PHL business or jeopardized their colleagues' bonuses and compensation.
6 The guiding philosophy and goal was to earn as much premium revenue as possible.
7 PHL's underwriters performed their jobs according to Defendants' mission and
8 strategy, approving policies regardless of any questions, concerns or red flags raised
9 in the application file.

10 55. Whether due to their indifference or Defendants' marketing pressure,
11 PHL's underwriters were lax in investigating the financial status and medical history
12 of elderly applicants for large face value life insurance policies. PHL did little, if
13 any, due diligence to verify the accuracy of the financial and medical information
14 submitted by its agents. By way of example, a former employee of Defendants, Mr.
15 Labar, testified that PHL made no effort to verify financial information submitted
16 regarding insureds. According to Mr. Labar, PHL only cared about having any
17 financial information at all so that it could claim, contrary to the facts, that it had
18 performed "due diligence." Mr. Labar also testified that PHL underwriters routinely
19 provided better ratings to insureds based on their medicals than did other insurers
20 and that PHL's underwriters did this because of internal pressure at PHL to approve
21 policies.

22 56. At least one example of PHL's deliberate disregard of any underwriting
23 standards is available in the public record in *PHL Variable Insurance Company v.*
24 *Faye Keith Jolly*, Case No. 08-cv-3220, United States District Court for the
25 Northern District of Georgia (the "Jolly case").

26 57. According to publicly filed documents in the Jolly case, PHL issued a
27 \$10 million insurance policy on a man named Keith Jolly, based on information
28 submitted by PHL's agents claiming that Mr. Jolly was a billionaire who had

1 amassed his fortune by discovering emeralds in a sunken Spanish armada. Medical
2 records PHL received, however, indicated that the supposed billionaire actually
3 worked at a cemetery

4 58. If the story told by PHL's agents had been true, PHL's underwriters
5 could, of course, have confirmed the story with even the most cursory internet
6 search. Had they done such a search, however, rather than seeing any confirmation
7 of sunken treasure, they would have discovered that the insured was instead a repeat
8 felon with little or no assets.

9 59. PHL's shockingly poor underwriting in the Jolly case has, much to
10 PHL's embarrassment, received significant media attention. One media outlet, the
11 *Hartford Courant*, astutely noted: "But at the heart of the story, as pieced together
12 through court records, is the question of how Phoenix could have approved the
13 policy in the first place. Jolly's application contained wild discrepancies and claims,
14 many easily debunked." PHL refused to comment to its hometown newspaper as to
15 "why the company accepted Jolly's application despite such glaring discrepancies."

16 60. The answer to the question raised by PHL's hometown paper lies in
17 PHL's unrelenting push to sell as many large policies as possible so as to boost its
18 premium revenue. In pursuit of this goal, PHL was willing to issue policies
19 regardless of the fact that they would be sold on the secondary market, regardless of
20 the insureds' financial information, and regardless of any inaccurate information
21 submitted by PHL's agents, even glaringly obvious inaccuracies such as outlandish
22 stories about sunken treasure.

23 61. Largely due to Defendants' success in selling policies which they now
24 deride as IOLI, PNX was able to pay significant dividends to its shareholders during
25 the relevant timeframe. Indeed, in each of the years from 2005-2007, it paid
26 substantial dividends to its shareholders.

27 62. Defendants' success in this market also enabled them to pay substantial
28 bonuses to their executives and their sales force, and large commissions to their

1 agents. For example, Ed Humphrey testified that, due to the sale of policies which
2 were likely to be sold into the secondary market, his compensation rose from
3 \$75,000 in 2004 to \$1.8 million in 2006. According to Mr. Humphrey, several other
4 employees of Defendants received annual compensation in excess of \$1 million
5 during the relevant period due to the sale of policies likely to be sold into the
6 secondary market. Between 2003 and 2008, PNX's CEO Dona Young received
7 approximately \$25 million in executive compensation, which was far more than the
8 compensation of many other CEOs, even CEOs from larger insurance companies.

9 63. California is one of the states in which Defendants were most
10 successful in their efforts to sell policies which they now condemn as IOLI.
11 Although most of Defendants' key employees fully embraced aggressive marketing
12 and selling of policies that Defendants' now label as IOLI, one employee, Mr.
13 Labar, complained to the California Insurance Commissioner about Defendants'
14 practices. The Insurance Commissioner correctly advised Mr. Labar that
15 California's laws during the relevant period permitted so-called IOLI. California
16 law only required an insurable interest to exist at inception and policyholders were
17 free to transfer their policies to investors after issuance.

18 64. Defendants' participation in the secondary market for life insurance
19 extended beyond actively promoting and soliciting life insurance policies which
20 they knew were likely to be sold to third parties on the secondary market. PNX
21 became an active buyer and originator of policies on the secondary market. On or
22 about April 1, 2008, PNX issued a press release stating in relevant part:

23 HARTFORD, Conn. – (BUSINESS Wire) – April 1, 2008
24 – The Phoenix Companies, Inc. (NYSE: PNX) today
25 announced that through its subsidiary, Phoenix Life
26 Solutions, it will enter the life insurance settlements
27 business with a focus on customer value and full
28 transparency on commissions and fees.

1 Phoenix Life Solutions will work with four prominent
2 brokerage general agencies (BGAs) across the country to
3 originate life settlements, or purchase unwanted or
4 unneeded life insurance policies from policy owners in
5 exchange for an immediate cash settlement...

6 65. About a week later, John Hillman, the President and CEO of Phoenix
7 Life Solutions, was quoted as saying, "We don't see the secondary market as a
8 threat; we see it as a tremendous opportunity."

9 66. Defendants even included a "right of first refusal" in their policies to
10 facilitate Defendants buying their own policies on the secondary market.
11 Defendants' assertions regarding "wagering," in the various rescission lawsuits they
12 file, are hypocritical. PNX itself has been a purchaser and originator of policies on
13 the secondary market. Defendants significantly and knowingly profited from the
14 secondary market during the years in which the sale of policies likely to be resold
15 made up the core of Defendants' life insurance business.

16 **PHL Sells The Policies At Issue As Part Of Defendants' Plan To Profit**
17 **From The Secondary Market**

18 67. PHL issued Plaintiffs the Policies during the 2006-2008 time period.

19 68. Each Policy insures the life of the individual insured who established
20 the Trust to which the Policy was issued. Each Policy complied with applicable
21 insurable interest laws because the Policy was procured by the individual whose life
22 was insured, and also because the beneficiary of the Policy at issuance was an
23 insurance trust established by the individual whose life was insured and, further, the
24 beneficiary of the Trust-owned Policy was a family member (i.e., spouse or child) of
25 the person whose life was insured by the Policy.

26 69. Many of the insureds were residents of this judicial district and many of
27 the Trusts originally had a trustee residing in this judicial district. Many of the
28 Policies were solicited by PHL (and Phoenix Life) agents residing in this judicial

1 district. The Trusts were and are the owners and beneficiaries of the Policies. An
2 index of the Policies at issue – including the Policy number and face amount – is
3 listed below:

4	Owner/Beneficiary	Policy Number	Issue Date	Face Amount
5	John Doe Trust 1	97520071	12/26/06	\$10 Million
6				
7	Jane Doe Trust 2	97520888	3/1/07	\$18 Million
8				
9	John Doe Trust 3	97522408	6/11/07	\$15 Million
10				
11	Jane Doe Trust 4	97521696	4/25/07	\$10 Million
12				
13	John Doe Trust 5	97520284	1/8/07	\$4 Million
14				
15	John Doe Trust 6	97520812	3/9/07	\$3.8 Million
16				
17	Jane Doe Trust 7	97521031	3/26/07	\$10 Million
18				
19	John Doe Trust 8	97521294	3/27/07	\$10 Million
20				
21	John Doe Trust 9	97521048	8/20/06	\$10 Million
22				
23	John Doe Trust 10	97521378	8/20/06	\$10 Million
24				
25	John Doe Trust 11	97520506	1/30/07	\$8 Million
26				
27	John Doe Trust 12	97522397	6/15/07	\$8 Million
28				
	John Doe Trust 13	97521320	3/28/07	\$8 Million
	John Doe Trust 14	97521321	3/28/07	\$8 Million
	John Doe Trust 15	97521809	5/3/07	\$7 Million

	Owner/Beneficiary	Policy Number	Issue Date	Face Amount
1				
2	John Doe Trust 16	97521539	4/11/07	\$7 Million
3				
4	John Doe Trust 17	97521403	4/11/07	\$10 Million
5				
6	John Doe Trust 18	97521770	5/2/07	\$5 Million
7				
8	John Doe Trust 19	97519179	2/6/07	\$5 Million
9				
10	John Doe Trust 20	97521195	3/21/07	\$10 Million
11				
12	John Doe Trust 21	97520861	3/1/07	\$7 Million
13				
14	Jane Doe Trust 22	97521514	4/11/07	\$10 Million
15				
16	John Doe Trust 23	97521012	3/14/07	\$10 Million
17				
18	John Doe Trust 24	97520777	4/19/07	\$5 Million
19				
20	John Doe Trust 25	97521700	5/2/07	\$10 Million
21				
22	John Doe Trust 26	97521172	3/21/07	\$7 Million
23				
24	Jane Doe Trust 27	97525531	12/10/07	\$10 Million
25				
26	John Doe Trust 28	97522142	6/20/07	\$2.5 Million
27				
28	John Doe Trust 29	97524232	8/5/07	\$10 Million
	John Doe Trust 30	97526378	2/5/08	\$3 Million
	John Doe Trust 31	97522530	6/25/07	\$6 Million
	John Doe Trust 32	97526094	12/11/07	\$10 Million

	Owner/Beneficiary	Policy Number	Issue Date	Face Amount
1				
2	John Doe Trust 33	97523537	8/21/07	\$8.5 Million
3				
4	John Doe Trust 34	97522647	7/19/07	\$11 Million
5				
6	John Doe Trust 35	97522876	8/10/07	\$3 Million
7				
8	John Doe Trust 36	97526077	1/25/08	\$4 Million
9				
10	Jane Doe Trust 37	97523627	9/25/07	\$5 Million
11				
12	John Doe Trust 38	97523991	9/6/07	\$6 Million
13				
14	John Doe Trust 39	97526006	12/5/07	\$5 Million
15				
16	Jane Doe Trust 40	97530500	5/16/08	\$7.25 Million
17				
18	John Doe Trust 41	97524710	10/26/07	\$10 Million
19				
20	Jane Doe Trust 42	97522793	5/9/07	\$10 Million
21				
22	Jane Doe Trust 43	97524804	10/20/07	\$12 Million
23				
24	John Doe Trust 44	97524390	11/9/07	\$5 Million
25				
26	John Doe Trust 45	97525135	11/27/07	\$7 Million
27				
28	John Doe Trust 46	97526705	1/29/08	\$3 Million
	Jane Doe Trust 47	97526661	1/24/08	\$6 Million
	John Doe Trust 48	97524674	12/20/07	\$5 Million
	John Doe Trust 49	97523945	9/13/07	\$10 Million

	Owner/Beneficiary	Policy Number	Issue Date	Face Amount
1				
2	John Doe Trust 50	97524197	9/13/07	\$10 Million
3				
4	John Doe Trust 51	97522969	8/12/07	\$4 Million
5				
6	Jane Doe Trust 52	97524684	12/23/07	\$10 Million
7				
8	Jane Doe Trust 53	97527013	12/23/07	\$10 Million
9				
10	John Doe Trust 54	97523960	9/13/07	\$7.5 Million
11				
12	John Doe Trust 55	97524122	9/13/07	\$7.5 Million
13				
14	John Doe Trust 56	97523018	4/18/07	\$3.85 Million
15				
16	Jane Doe Trust 57	97523622	8/24/07	\$9 Million
17				
18	John Doe Trust 58	97524002	10/11/07	\$3 Million
19				
20	Jane Doe Trust 59	97523154	8/3/07	\$10 Million
21				
22	John Doe Trust 60	97523517	8/22/07	\$7 Million
23				
24				
25				
26				
27				
28				

70. Many of the Plaintiff Trusts were established by individual insureds who reside in this judicial district. As such, many of the Policies issued by PHL to the Trusts were issued on the lives of insureds residing in this judicial district. Specifically, the following Trusts were formed by insureds residing in this judicial district: Jane Doe Trust 2, John Doe Trust 8, John Doe Trust 9, John Doe Trust 10, John Doe Trust 11, John Doe Trust 12, John Doe Trust 13, John Doe Trust 14, John Doe Trust 15, John Doe Trust 18, John Doe Trust 20, John Doe Trust 21, John Doe Trust 23, John Doe Trust 26, John Doe Trust 29, John Doe Trust 31, John Doe Trust 32, John Doe Trust 33, John Doe Trust 39, and John Doe Trust 60. And, PHL

1 issued Policies to each of the Trusts listed above on the life of an individual residing
2 in this judicial district.

3 71. With respect to each of the Policies identified in paragraph 70 as
4 having been issued on the lives of insureds residing in this judicial district, Plaintiffs
5 are informed and believe, and upon such information and belief allege, that each
6 insured signed the policy application and other related documents in this judicial
7 district and were solicited by PHL to buy insurance within this judicial district.

8 72. Many of the Trusts had a trustee who resided in this judicial district at
9 the time that the Trust was formed, when the Trust applied for a Policy and when
10 the Policy was issued. Many of the Policies therefore were issued by PHL to Trusts
11 whose trustee resided in this judicial district. The following Trusts had a trustee
12 residing in this judicial district when they were first formed and when the Policies
13 were applied for and issued by PHL: Jane Doe Trust 4, John Doe Trust 9, John Doe
14 Trust 10, John Doe Trust 12, John Doe Trust 15, John Doe Trust 18, John Doe Trust
15 19, John Doe Trust 29, John Doe Trust 31, John Doe Trust 32, John Doe Trust 33,
16 John Doe Trust 39, John Doe Trust 41, John Doe Trust 45, and John Doe Trust 60.

17 73. With respect to each of the Policies identified in paragraph 72 as
18 having been issued by PHL to Trusts whose trustee resided in this judicial district,
19 Plaintiffs are informed and believe, and upon such information and belief allege,
20 that the Trustee signed the insurance application and other related documents in this
21 judicial district and were solicited by PHL to buy insurance within this judicial
22 district. Plaintiffs are further informed and believe, and upon such information and
23 belief allege, that, for each of these Policies, PHL sent premium notices, annual
24 policy summaries, illustrations and other documents to these Trusts, through their
25 trustees, in this judicial district.

26 74. Many of the Policies were solicited on PHL's behalf by PHL agents
27 residing in this judicial district. For example, PHL agent Kevin Burke, who resides
28 in this judicial district, solicited the Policies issued to the following Trusts: Jane Doe

1 Trust 2, Jane Doe Trust 4, John Doe Trust 8, John Doe Trust 11, John Doe Trust 12,
2 John Doe Trust 13, John Doe Trust 14, John Doe Trust 15, John Doe Trust 18, John
3 Doe Trust 20, John Doe Trust 21, John Doe Trust 23, John Doe Trust 25, John Doe
4 Trust 26, John Doe Trust 29, and John Doe Trust 41. PHL agent Richard Son, who
5 resides in this judicial district, solicited the Policies issued to the following Trusts:
6 John Doe Trust 32, John Doe Trust 38, and John Doe Trust 39. PHL agent Rosslyn
7 Muriu, who resides in this judicial district, solicited the Policies issued to the
8 following Trusts: John Doe Trust 16, John Doe Trust 17, John Doe Trust 54, and
9 John Doe Trust 55.

10 75. For each of the Policies identified in paragraph 74, the PHL agent
11 solicited and communicated with the relevant insureds and Trusts, on PHL's behalf,
12 in or from this judicial district. Additionally, PHL and Phoenix Life paid substantial
13 commissions to its agents residing in this judicial district as a result of the sale of the
14 Policies.

15 76. All of the Policies, including those discussed in paragraphs 70-75, have
16 substantially similar policy language and were issued during the same time period as
17 a part of Defendants' aggressive campaign to capture market share in the lucrative
18 market for high face value policies likely to be sold into the secondary market. As
19 discussed throughout this Complaint, all of the Plaintiffs Trusts, including those
20 discussed in paragraphs 70-73, have been targets of Defendants' fraudulent scheme
21 to defraud policyholders and Defendants' wrongful actions towards and
22 misrepresentations to Plaintiffs have all, as discussed herein, been nearly identical.

23 77. Consistent with Defendants' marketing of their policies so as to take
24 advantage of the burgeoning secondary market, the Policies issued by PHL provided
25 Plaintiffs with significant transfer rights and flexibility.

26 78. Each of the Policies expressly provided the policy owner with broad
27 rights to change ownership of the policy, change the beneficiary of the policy, and
28 assign rights under the policy. With respect to sales of the policy (as opposed to a

1 beneficial interest in the policy owner), PHL provided itself with a right of first
2 refusal to purchase the policy as part of Defendants' own life settlement operations.

3 79. Section 17 of the Policies provides, among other things, as follows:

4 You may change the beneficiary by written notice filed
5 with us at our main Administrative Office. When we
6 receive it, the change will take affect as of the date it was
7 signed by you. However, the change will be subject to any
8 payments made or actions taken by us before we received
9 the notice at our Main Administrative Office.

10 80. Section 18 of the Policies provides, among other things, as follows:

11 You may, by written notice, assign any interest in this
12 policy without the consent of any person other than an
13 irrevocable Beneficiary...When filed, it will bind us as of
14 the date of the assignment...

15 81. After the Policies were issued, the beneficiaries of the Trusts
16 transferred their beneficial interests in the Trusts, as was permitted by the Policies
17 and applicable law.

18 82. Wilmington Savings, as successor-in-interest to Christiana Bank, is the
19 current trustee of each of the Trusts. Christiana Bank was not the initial trustee of
20 any of the Trusts.

21 83. The current beneficiary of the Plaintiff Trusts is a fund, and the entity
22 with the largest investment in that fund is a California entity transacting business in
23 this District: specifically, CalPERS, a unit of the State of California's State and
24 Consumer Services Agency. *See* Cal. Gov't Code § 20002. The other investors
25 with a smaller investment in the fund include various individuals, many of whom
26 are utilizing their retirement accounts. The majority investment by CalPERS places
27 it in good company among many large pension funds, at the state, local, national and
28 international level, which have invested in funds owning life insurance policies as a

1 way to diversify and stabilize their portfolios, including, for example: Oregon
2 PERS, the Retirement Board of Allegheny County, and the New Zealand
3 Government Superannuation Fund.

4 84. The Trusts have complied with all terms of the Policies, including the
5 timely payment of all premiums due under the Policies. To date, PHL has collected
6 more than \$44 million in premiums for the Policies, which has benefited all of the
7 Defendants.

8 **Defendants Financially Collapse Due To Their Reckless Management**

9 85. Since issuing the Policies, Defendants have found themselves in
10 substantially different economic conditions as they suffered significant financial
11 losses during the 2008-09 economic crisis.

12 86. PNX suffered a reported net loss of approximately \$726 million in
13 2008. PNX reported an additional loss of \$319 million in 2009, bringing to well
14 over \$1 billion its reported total losses in 2008-2009. Plaintiffs are informed and
15 believe, and upon such information and belief allege, that PNX's reported losses
16 were primarily attributable to poor investment and management decisions by
17 Defendants' executives, as opposed to losses from the sale of life insurance
18 products. Indeed, AM Best previously had observed that "the company
19 maintain[ed] higher than industry average exposure to commercial mortgage-backed
20 securities, Alt-A residential mortgage-backed securities and below investment grade
21 bonds as a result of its investment strategy."

22 87. As a result of these enormous losses, Defendants were downgraded by
23 the ratings agencies to "junk" bond range and were forced to fire a substantial
24 portion of their workforce.

25 88. Defendants lost their biggest distributors in early 2009, because they
26 were no longer able to sell Defendants' products due to the ratings downgrades.
27 This caused Defendants to exit the market for large face value life insurance
28 policies.

1 89. PNX's stock, which had traded at over \$15 a share during much of
2 2007 plummeted to as low as 21 cents a share in 2009.

3 90. Upon information and belief, the executives who were responsible for
4 Defendants' collapse were rewarded with generous severance packages worth tens
5 of millions of dollars. This further weakened Defendants' tenuous financial
6 position.

7 91. Because Defendants are no longer attempting to sell large face value
8 policies in the high net worth market, they apparently are no longer concerned with
9 their reputation among distributors and consumers. Instead, fighting for their own
10 survival, Defendants have desperately avoided having to pay any large claims which
11 would further weaken their final position. Indeed, in 2008, PHL denied only 1% of
12 the total death benefit claims it received (consistent with the industry average), but
13 in 2009, 2010, and 2011 PHL denied 12.37%, 16.20%, and 20.87% respectively.
14 PHL is on track for an even higher percentage in 2012. In 2011 alone, PHL denied
15 coverage for \$34 million in death claims.

16 92. As a result of these efforts, PNX only lost \$12.6 million in 2010 and
17 turned a modest profit in 2011. Had Defendants honored their contractual
18 obligations and paid death benefits when due, their financial slide undoubtedly
19 would have continued.

20 93. These efforts have allowed Defendants' key executives to enrich
21 themselves to the detriment of their policyholders. As a direct result of Defendants'
22 wrongful conduct, Defendants' executives have been able to loot Defendants by way
23 of the following exorbitant payouts:

24 • James Wehr, PNX's President and CEO, received \$3,439,396 in 2009;
25 \$3,509,365 in 2010; and \$3,766,804 in 2011.

26 • Peter Hofmann, PNX's Senior Executive Vice President and Chief
27 Financial Officer, received \$1,017,833 in 2009; \$1,255,717 in 2010; and \$1,806,679
28 in 2011.

1 • Philip Pokinghorn, PNX's Senior Executive Vice President of Business
2 Development, received \$1,239,199 in 2009; \$1,465,951 in 2010; and \$1,748,831 in
3 2011.

4 • Edward Cassidy, PNX's Executive Vice President of Distribution,
5 received \$1,156,405 in 2009 and \$1,656,101 in 2010.

6 • Christopher Wilkos, PNX's Executive Vice President and Chief
7 Investment Officer, received \$980,920 in 2009; \$1,294,594 in 2010; and \$1,423,124
8 in 2011.

9 **Defendants Begin Breaching Their Obligations To And Defrauding Their**
10 **Policyholders In An Effort To Escape Their Dire Financial Situation**

11 94. To address their own financial troubles, and enrich their executives,
12 Defendants have made a concerted effort to avoid having to honor policies PHL and
13 Phoenix Life issued where either the policy or a beneficial interest in a trust owning
14 the policy was later sold to investors on the secondary market. Although PHL and
15 Phoenix Life willingly issued such policies when doing so served Defendants'
16 interests to increase premium revenue, Defendants now view such policies as
17 unprofitable because the policies are not likely to lapse. Upon information and
18 belief, Defendants have concluded that if the policies PHL and Phoenix Life issued
19 do not lapse, and Defendants were to pay death benefits when due, Defendants'
20 financial well-being would be threatened and Defendants might become insolvent.
21 Defendants have implemented a wide scale effort to avoid paying claims on the
22 many billions of dollars worth of policies they issued (including in California)
23 which have since been sold on the secondary market and to defraud policyholders
24 (including in California) into continuing to pay premiums on these policies
25 Defendants have no intention of honoring, so that Defendants can later attempt to
26 confiscate these premiums and thus reap a financial windfall.

27 95. As discussed below, PHL has acted unlawfully and in bad faith and
28 breached its contractual obligations to Plaintiffs as part of a fraudulent scheme.

1 Among other things, PHL has: (i) implemented a practice of denying all claims, and
2 instituting rescission actions, with respect to any policy which has been transferred
3 to an investor, or where the beneficial interest in the trust that owns the policy has
4 been transferred to an investor; (ii) unlawfully increased its COI rates for the
5 Policies and other policies which it believes were likely to have been sold to
6 investors; and (iii) attempted to restrict its policyholders' rights to transfer their
7 policies, in direct violation of the terms of their policies. Defendants have conspired
8 to defraud Plaintiffs and other policyholders by engaging in a pattern and practice of
9 misrepresenting and fraudulently concealing their true intentions to their
10 policyholders, so that Plaintiffs and other policyholders will continue to pay
11 premiums on policies Defendants have no intention of honoring.

12 **A. PHL Engages In A Systematic Practice Of Denying Death**
13 **Claims And Attempting To Rescind Policies And Keeping Its**
14 **Policyholders' Premiums**

15 96. In an effort to address the financial problems of Defendants' own
16 making, over the past few years, PHL persistently has denied claims submitted
17 under policies similar to those at issue here. Indeed, upon information and belief,
18 PHL, has implemented a policy of denying claims under all policies like those at
19 issue here.

20 97. PHL has implemented a practice in which it denies coverage where an
21 investor has acquired an interest in the policy or in a trust which owns the policy.
22 PHL has implemented this policy even though, as described above, PHL knowingly
23 sold billions of dollars of policies it knew would be sold on the secondary market.
24 PHL has denied claims under policies transferred to investors even though PHL
25 specifically approved the transaction and recorded the policies' change of ownership
26 without objection.

27 98. The Policies provide that PHL will pay the death benefit due under the
28 policy upon "due proof of death of the Insured." The Policies do not contain any

1 further requirement that the policy owner must comply with to receive the death
2 benefit after the insured's death.

3 99. In violation of the Policies' express terms, PHL has instituted a practice
4 in which it requires that, for any death claim submitted by a trust policyholder, the
5 trust must complete a form providing information not required by the policy. This
6 practice is admitted at Defendants' website. Under "Life Insurance Claims," the
7 website has a section "What to Do if a Beneficiary is a Trust" stating: "In addition to
8 the Beneficiary Statement of Benefits, a certified death certificate, original insurance
9 contract and Certification and Acknowledgement of Trust Agreement are required."
10 <https://www.phoenixwm.phl.com/public/customerservice/claims.jsp>.

11 100. Although not required by the Policy's express terms, the Certification
12 and Acknowledgement of Trust Agreement form demands that, to seek death
13 benefits, a trust must state whether it has transferred any beneficial interest and, if
14 so, to whom. Among the questions contained on the form are:

15 Please identify all Trust Beneficiaries and any and
16 all persons or entities with any right, title, or interest in the
17 beneficial interest of the Trust and describe the
18 relationship between the Insured and any person or entity
19 named.

20 Has there been any change in Trust beneficiaries
21 since the Date of Trust? If yes, please identify the
22 changes.

23 Has any Trust Beneficiary sold, assigned, or
24 otherwise transferred his/her interest in the Trust to
25 anyone? If Yes, please identify the date of sale and the
26 person or entity to which the interest was transferred.

27 Did any party other than the Insured fund any
28 contributions to the Trust's capital/principal? If yes,

1 please identify the source of all capital/principal
2 contributions to the Trust.

3 101. If a trust does not provide PHL with all of the information requested on
4 the Certification and Acknowledgement of Trust Agreement form, PHL denies the
5 claim and refuses to pay benefits because, even though the policy does not require
6 such information, the policyholder trust did not provide it. If the trust completes the
7 form, and indicates that a beneficial interest transfer occurred, PHL denies the
8 trust's claim because, although not prohibited by the policy or applicable law, a
9 beneficial interest in the policyholder trust was transferred.

10 102. As evidence of this widespread and systematic practice by PHL to deny
11 claims when a policy or beneficial interest in a trust owning a policy has been sold
12 on the secondary market: (i) PHL has filed numerous lawsuits seeking to rescind
13 policies and deny death claims; and (ii) several lawsuits have been filed against PHL
14 seeking to enforce policies and recover death claims. PHL also has filed numerous
15 lawsuits in which, prior to the insured's death, it has sought to rescind the applicable
16 policy based on the fact that the policy or the beneficial interest in the trust policy
17 owner was transferred. PHL even seeks to deny claims and rescind policies after
18 collecting premiums for five or six years. In these various lawsuits, PHL has
19 claimed that the fact that the beneficial interest in the trust, or the policy itself, has
20 been transferred means that the policy lacks a valid insurable interest. By way of
21 example, a partial list of lawsuits includes: *PHL Variable Insurance Company v.*
22 *U.S. Bank Nat'l Ass'n, et al.*, Case No. 10-cv-00197 (D. Minn. Apr. 8, 2010),
23 Complaint; *PHL Variable Insurance Company v. 2008 Christa Joseph Irrevocable*
24 *Trust*, Case No. 10-cv-03001 (D. Minn. Jul. 14, 2010), Complaint; *PHL Variable*
25 *Insurance Company v. Jay Doss Irrevocable Life Insurance Trust*, Case No. HHD-
26 CV-10-6017099-S (Conn. Superior Court, Hartford, November 23, 2010),
27 Complaint; *PHL Variable Insurance Company v. Dolores C. Painter Irrevocable NJ*
28 *Trust, et al.*, Case No. 10-cv-03603 (D.N.J. Jul. 16, 2010), Complaint; *PHL*

1 *Variable Insurance Company v. LaSalle Bank N.A., et al.*, Case No. 08-cv-11562
2 (E.D. Mich. Apr. 11, 2008), Complaint; *PHL Variable Insurance Company v.*
3 *Clifton Wright Family Insurance Trust*, Case No. 09-C-2344 (S.D. Cal. Nov. 12,
4 2009), Complaint; *PHL Variable Insurance Company v. Kenneth Green Family*
5 *Insurance Trust*, Case No. 09-cv-02606 (S.D. Cal. Nov. 18, 2009), Complaint; *PHL*
6 *Variable Insurance Company v. The James Evans Family Insurance Trust*, Case No.
7 10-cv-00240 (S.D. Cal. Jan. 29, 2010), Complaint; *PHL Variable Insurance*
8 *Company v. The Abrams Family Irrevocable Life Insurance Trust*, Case No. 10-CV-
9 521 (S.D. Cal. March 11, 2010); *PHL Variable Insurance Company v. Kristian*
10 *Giordano, et al.*, Case No. 10-cv-00661 (S.D. Cal. Mar. 26, 2010), Complaint; *PHL*
11 *Variable Insurance Company v. Gabriel Giordano, et al.*, Case No. 10-cv-0071
12 (S.D. Cal. Apr. 13, 2010), Complaint; *PHL Variable Insurance Company v. The*
13 *Hyman Davidson 2008 Irrevocable Life Insurance Trust*, Case No. 10-CV-1219
14 (S.D. Cal. June 8, 2010); Complaint; *PHL Variable Insurance Company v. The*
15 *Patricia Sanford Family Insurance Trust, et al.*, Case No. 10-cv-00784 (S.D. Cal.
16 Apr. 14, 2010), Complaint; *PHL Variable Insurance Company v. Alberto Rubio*
17 *Family Insurance Trust, et al.*, Case No. 09-CV-4652 (C.D. Cal. June 26, 2009),
18 Complaint; *U.S. Bank National Association v. PHL Variable Insurance Company*,
19 Case No. 12-CV-0347, (C.D. Cal. Apr. 6, 2012); *U.S. Bank National Association v.*
20 *PHL Variable Insurance Company*, Case No. 12-CV-00877, (D. Minn. Apr. 6,
21 2012).

22 103. As a result of this widespread and systematic practice, policyholders
23 owning 197 policies with a total face amount of \$1.15 billion recently brought
24 claims against Defendants and certain of their current and former executive officers
25 for civil RICO and violations of Connecticut's antitrust act and unfair trade practices
26 act. *Lima LS Plc v. PHL Variable Insurance Company, et al.*, Case No. 3:12-cv-
27 01122 (D. Conn. August 2, 2012). Similarly, thirteen PHL policyholders recently
28 brought claims against PHL for breach of contract, fraud, and declaratory relief

1 related to the validity of their policies. See Counterclaims in *PHL Variable*
2 *Insurance Company v. ESF QIF Trust*, Case No. 12-CV-00319, (D. Del. Mar. 15,
3 2012) [D.I. 8].

4 104. PHL's intention to not honor the Policies also is evident from other
5 actions by PHL. For example, PHL has challenged the validity of five large face
6 amount policies owned by trusts for which Wilmington Savings, as successor-in-
7 interest to Christiana Bank, serves as trustee, including three of the Policies. See
8 *PHL Variable Insurance Company v. Price Dawe 2006 Insurance Trust*, Case No.
9 10-CV-964, (D. Del. Nov. 12, 2010), Complaint; *PHL Variable Insurance Company*
10 *v. The Helene Small Insurance Trust*, Case No. 12-CV-00312, (D. Del. Mar. 15,
11 2012), Complaint; *PHL Variable Insurance Company v. The Edwin Fuld Life*
12 *Insurance Trust*, Case No. 12-CV-00313, (D. Del. Mar. 15, 2012), Complaint; *PHL*
13 *Variable Insurance Company v. The Chong Son Pak Life Insurance Trust*, Case No.
14 12-CV-00314, (D. Del. Mar. 15, 2012), Complaint; *PHL Variable Insurance*
15 *Company v. The Virginia L. Lankow Life Insurance Trust*, Case No. 12-CV-315, (D.
16 Del. Mar. 15, 2012), Complaint. PHL uses template "cookie cutter" complaints
17 alleging that the policies are "IOLI" and violate applicable insurable interest laws.

18 105. PHL also has denied claims and/or brought rescission actions regarding
19 several policies in which PHL's agent Robert Fink, who was PHL's agent (in
20 California) for many of the Policies, was the agent. See, e.g., *PHL Variable*
21 *Insurance Company v. The Edwin Fuld Life Insurance Trust*, Case No. 12-CV-
22 00313, (D. Del. Mar. 15, 2012); *PHL Variable Insurance Company v. The Virginia*
23 *L. Lankow Life Insurance Trust*, Case No. 12-CV-315, (D. Del. Mar. 15, 2012).
24 Further, on information and belief, PHL has long considered Kevin Burke, who was
25 PHL's agent (in California) for approximately 15 of the Policies, a so-called IOLI
26 producer whose policies it intends to challenge. Indeed, during a 2010 deposition of
27 Mr. Labar, Mr. Labar singled out Mr. Burke as one of the PHL and Phoenix Life
28 agents who produced the largest volume of what Defendants now condemn as IOLI.

1 106. Additionally, PHL maintains tracking spreadsheets of policies it
2 considers IOLI. Upon information and belief, each of the Policies at issue has long
3 been included on PHL's IOLI tracking spreadsheets, indicating that PHL will
4 ultimately deny any claim submitted under the Policies.

5 107. Moreover, when attempting to rescind policies, PHL, as a matter of
6 practice, has taken the position that it not only is entitled to deny claims and rescind
7 coverage, but also that PHL is entitled to retain all premiums paid for the policies.
8 By taking that position, PHL is directly breaching the terms of its policies.

9 108. Section 21 of the Policies expressly provides: "If we contest the
10 validity of all or a portion of the face amount provided under this policy, the amount
11 we pay with respect to the contested amount will be limited to the higher of a return
12 of any paid premium required by us for the contested face amount or the sum of any
13 Monthly Deductions made under this policy for the contested face amount."

14 109. In other words, PHL contractually agreed, as an inducement to buying
15 policies, that if it successfully contested a policy it would pay the policyholder back
16 no less than all premiums paid for the policy. PHL's consistent failure to honor the
17 terms of its policies is willful and done in bad faith.

18 110. Through its pattern of denying claims, challenging policies, and
19 attempting to retain premiums, on similarly-situated policies, PHL has caused the
20 Plaintiffs harm by significantly diminishing the value of their Policies

21 111. The marketability of the Policies owned by Plaintiffs depends on
22 investors' confidence that the issuing insurer will pay a claim upon the death of the
23 insured. In the absence of certainty that the carrier will honor the Policy, the Policy
24 is rendered unmarketable and Plaintiffs are deprived of the economic benefit of
25 owning the Policies.

26 112. PHL's systematic refusal to pay death benefits contractually due under
27 policies similar to these Policies, and its stance that it can retain premiums paid
28 under the Policies, have destroyed the market's confidence in the Policies and

1 significantly diminished the value of the Policies, thus depriving Plaintiffs of their
2 economic interests in the Policies. As a result of PHL's continuous and systematic
3 challenge of such policies and the uncertainty it has engendered, the value and
4 marketability of the Policies has been and will continue to be impaired. In addition,
5 PHL continues to collect premiums on the Policies at the same time that it is
6 claiming that it owes no benefits on similarly situated policies and, on information
7 and belief, already has decided that it will ultimately deny any claim submitted
8 under the Policies.

9 113. Based on Defendants' actions described above, the market has no
10 confidence that: (i) PHL will honor any policy which has been transferred or any
11 policy owned by a trust whose beneficial interest has been transferred; and (ii) PHL
12 will willingly return premiums if a policy is rescinded. Plaintiffs have thus been
13 forced into a position where they must continue paying premiums without any
14 assurance their Policies will be honored by PHL or even that their premiums will be
15 returned if PHL does not honor the Policies.

16 114. As one Judge aptly described the present harm caused by Defendants'
17 pattern of challenging similar policies:

18 The marketability of the plaintiff's property, the subject
19 life insurance policy, has been destroyed by [Phoenix
20 Life's] refusal to honor similar policies involving [an
21 agent] or that involve an alleged stranger-originated policy
22 scheme with a trust structure similar to that used herein.
23 As interest in a life insurance policy is a recognized
24 property right, Phoenix's prior actions and express
25 statements regarding trust schemes involving [an agent]
26 create a cloud over the marketability of the subject policy.
27 The likelihood that Phoenix will contest the policy upon
28 the insured's death substantially diminishes the value of

1 the policy, if it does not destroy it completely. July 5,
2 2001 Order in *CSSEL Bare Trust, Dated As Of April 21,*
3 *2006 v. Phoenix Life Insurance Company*, Index No.
4 601002/2009, Supreme Court of the State of New York,
5 New York County.

6 115. Plaintiffs believe that their Policies are valid and are continuing to pay
7 substantial premiums to PHL for such Policies. PHL's actions make clear not only
8 that it already has decided to ultimately challenge the Policies but also that it will
9 attempt to confiscate the premiums Plaintiffs are paying and will continue to pay.
10 To redress a real and present economic injury to them, Plaintiffs are entitled to a
11 declaratory judgment by this Court establishing PHL's obligation to pay an eventual
12 claim for death benefits under the Policies or, in the alternative, to require PHL to
13 refund all premiums on any policy that is rescinded or voided.

14 **B. PHL, As Part Of A Conspiracy With Phoenix Life And PNX,**
15 **Fraudulently Misrepresents And Conceals Its True**
16 **Intentions So As To Obtain Additional Revenue**

17 116. Having determined that it will not honor the Policies and will deny
18 death claims submitted under the Policies, and other similar policies, PHL has
19 implemented a widespread practice of defrauding Plaintiffs and other policyholders
20 (including policyholders in California) into paying additional premiums which PHL
21 will later attempt to confiscate. PHL has concealed from Plaintiffs and other
22 policyholders PHL's present intention to ultimately deny their claims for benefits.
23 PHL's failure to disclose its present intention to deny Plaintiffs' and other
24 policyholders' claims for benefits when submitted is material because, among other
25 things, PHL has continued to bill Plaintiffs and other policyholders for premiums
26 and to send them other communications intended to assure Plaintiffs and other
27 policyholders that their policies are valid and in good standing, lull them into
28 believing that PHL intends to pay death benefits when due and induce them to

1 continue to pay PHL premiums. PHL's communications both affirmatively
2 misrepresent and fraudulently conceal PHL's true intentions, which are to ultimately
3 deny Plaintiffs' claims for coverage and seek to retain the premiums that PHL
4 continues to bill and receive.

5 117. PHL has engaged in this widespread fraud in concert with, and as part
6 of a conspiracy with, Phoenix Life and PNX in an effort to improve Defendants'
7 dire financial situation. Plaintiffs are informed and believe that Defendants have
8 several improper motivations for this dishonest and fraudulent conduct. First,
9 Plaintiffs are informed and believe that Defendants hope that, by concealing their
10 true intentions while PHL continues to charge and receive premiums, Plaintiffs will
11 allow some of the Policies to lapse due to PHL's other improper conduct with
12 respect to the Policies. Every Policy that lapses would give Defendants a windfall
13 and allow them to avoid the cost of litigation. Further, as described above, when
14 PHL denies coverage and attempts to rescind policies, it takes the position that it is
15 entitled to retain premiums. Thus, by continuing to charge premiums on policies it
16 has no intention of honoring, PHL increases the amount of premiums it can later
17 attempt to confiscate when it ultimately denies coverage and attempts to rescind. As
18 part of this conspiracy among Defendants, PHL has collected millions of dollars in
19 premiums under false pretenses, with no intention of either honoring the Policies or
20 returning the premiums.

21 118. One egregious example of this fraudulent practice by Defendants
22 relates to the Policy owned by the John Doe Trust 1. On December 11, 2009 PHL
23 filed a federal lawsuit in Florida accusing the insured who created the John Doe
24 Trust 1 of lying on an insurance application for a different policy and alleged that
25 policy was an unlawful IOLI policy. PHL's agent for the policy, Robert Fink, was
26 later added as a third-party defendant in that case. PHL, however, delayed and
27 continued collecting premiums for an additional two years before suing to rescind
28 the Policy owned by the John Doe Trust 1 on the very same grounds it previously

1 sought to rescind another policy issued on the life of the same insured and solicited
2 by the same agent.

3 119. PHL's practice of failing to disclose and concealing its present intent to
4 deny benefits, challenge the policies and attempt to keep the premiums it continues
5 to bill and collect was adopted by Defendants in bad faith and is a fraud on Plaintiffs
6 and other policyholders. In furtherance of this fraudulent scheme, PHL has made
7 repeated misrepresentations and concealed material information with a fraudulent
8 intent.

9 120. For each of the Policies, PHL has continued to send premium notices
10 by the United States Postal Service, charging premiums to Plaintiffs that they must
11 pay to avoid having their Policies lapse. Defendants have caused PHL to mail
12 Plaintiffs these notices (some of which were mailed to California), and collect the
13 premiums billed therein, without disclosing to Plaintiffs that Defendants secretly
14 intend to have PHL deny benefits when claims are made and seek to retain all of the
15 premiums being billed and collected. PHL has also provided Plaintiffs with wiring
16 instructions for the payment of premiums and accepted the premium payments by
17 interstate wire transfer. PHL mailed the notices as part of Defendants' plan to
18 defraud Plaintiffs into paying premiums for Policies PHL intends to challenge and to
19 earn additional premium revenue for PHL which it does not intend to return.

20 121. Premiums are only due under policies which are valid and enforceable.
21 If an insurer knows or believes that a policy is invalid or unenforceable, or intends
22 not to honor a policy on such a basis, the insurer has an obligation to inform the
23 policyholder of that fact and cease charging premiums for the policy in question.
24 PHL has determined that it will not honor the Policies, yet has continued to use the
25 United States Postal Service to bill Plaintiffs for premiums PHL claims are due
26 under the Policies. Each time PHL mails a premium notice to Plaintiffs, PHL is
27 affirmatively representing that, to its knowledge, the Policy in question is valid and
28 enforceable and that it has no plan to challenge the Policy or deny benefits under the

1 Policy. These affirmative representations give rise to a duty to disclose all material
2 facts necessary to make full and complete disclosure. Each time that PHL has used
3 the United States Postal Service to bill Plaintiffs for premiums, PHL has
4 fraudulently concealed its secret intention to deny benefits under the Policy when
5 the insured dies and attempt to rescind the Policy and confiscate all of the premiums
6 being billed and collected.

7 122. For each Policy, PHL has used the United States Postal Service to mail
8 Plaintiffs annual statements (called an “Annual Policy Summary”) advising
9 Plaintiffs of their Policies’ current death benefits and policy values. Each Annual
10 Policy Summary thanks the Plaintiff to whom it is mailed “for choosing Phoenix to
11 meet your insurance and investment needs.” Each Annual Policy Summary also
12 states that “Phoenix is committed to providing you with the highest level of service
13 now, and in the future.” Each Annual Policy Summary further states that the
14 Plaintiff policyholder “should consider requesting more detailed information about
15 your policy to understand how it may perform in the future.” Plaintiffs are informed
16 and believe, and upon such information and belief allege, that PHL mailed these
17 statements with the intent to ultimately deny Plaintiffs’ claims for benefits. PHL
18 mailed Plaintiffs these Annual Policy Summaries in furtherance of Defendants’
19 scheme to defraud Plaintiffs into paying premiums for Policies PHL intends to
20 challenge and earn additional premium revenue which PHL intends to keep.

21 123. The Annual Policy Summaries affirmatively misrepresented and
22 fraudulently concealed facts from Plaintiffs. When PHL represented to Plaintiffs the
23 amount of the current death benefit and policy value, PHL knew and intended that
24 Plaintiffs would believe that PHL intended to honor the Policy and pay the amounts
25 stated and that the Plaintiffs would be induced to continue to pay premiums based
26 on those representations and assurances. These Annual Policy Summaries mailed to
27 Plaintiffs each falsely represented that PHL considered the Policy in question valid
28 and enforceable and that PHL had no plan to challenge the Policy or deny benefits

1 under the Policy. In mailing this information to Plaintiffs, PHL fraudulently
2 concealed that it had no intention of paying the amounts stated, but instead intended
3 to deny any claim for benefits and to confiscate all premiums paid.

4 124. As invited to do by the Annual Policy Summaries, Plaintiffs requested
5 policy illustrations from PHL. PHL responded to Plaintiffs' requests by either
6 faxing Plaintiffs policy illustrations by interstate wires or mailing Plaintiffs the
7 policy illustrations by the United States Postal Service. Some of the policy
8 illustrations were sent to Plaintiffs in California. Among other things, the policy
9 illustrations faxed or mailed to Plaintiffs advised Plaintiffs of the current death
10 benefits and policy values for their respective Policies. The policy illustrations also
11 contained projections of these figures based on premium outlays. When PHL faxed
12 and mailed these illustrations to Plaintiffs, PHL did not disclose to Plaintiffs that
13 PHL did not intend to honor the Policies and pay benefits. PHL faxed and mailed
14 Plaintiffs the illustrations in furtherance of Defendants' plan to defraud Plaintiffs
15 into paying premiums for Policies PHL intends to challenge and to earn additional
16 premium revenue for PHL which PHL does not intend to return.

17 125. The policy illustrations faxed and mailed to Plaintiffs by PHL
18 affirmatively misrepresented and fraudulently concealed material facts. For
19 example, when PHL represented to a Plaintiff the amount of the Policy's current
20 death benefit and policy value, PHL knew and intended that the Plaintiff would: (i)
21 believe that PHL intended to honor the Policy and pay the amounts stated; and (ii) in
22 reasonable and justifiable reliance on PHL's representations and assurances,
23 continue to pay premiums. The policy illustrations faxed and mailed to each
24 Plaintiff by PHL falsely represented that PHL considered the Policy to be valid and
25 enforceable and that PHL had no plan to challenge the Policy or deny benefits. PHL
26 fraudulently concealed, and failed to disclose, that it did not intend to pay the
27 amounts stated, but instead intended to deny any claim for benefits and to confiscate
28 all premiums paid.

1 126. PHL also has sent each Plaintiff documents entitled Verification of
2 Coverage for Life Insurance Policy (“VOC”) either by fax using interstate wires or
3 mail using the United States Postal Service. The VOCs verified to Plaintiffs that
4 they had coverage from PHL and gave details about the coverage. For example, in
5 response to the VOC’s question “Is the above referenced policy in force,” PHL
6 answered and represented “YES.” The VOCs confirmed for each Plaintiff the
7 current death benefit and policy value for that Plaintiff’s Policy. The VOCs faxed
8 and mailed to each Plaintiff fraudulently concealed, and failed to disclose, that PHL
9 did not intend to pay the amounts stated, but instead intended to deny any claim for
10 benefits and to confiscate all premiums paid. PHL faxed and mailed Plaintiffs the
11 VOCs in furtherance of Defendants’ plan to defraud Plaintiffs into paying premiums
12 for Policies PHL intends to challenge and to earn additional premium revenue for
13 PHL which PHL does not intend to return.

14 127. The VOCs that PHL faxed and mailed Plaintiffs affirmatively
15 misrepresented and fraudulently concealed facts from Plaintiffs. When PHL
16 represented “YES” in response to the question whether a Policy was “in force,” PHL
17 knew and intended that Plaintiffs would: (i) believe that PHL intended to honor their
18 respective Policy and pay the amounts stated; and (ii) in reasonable and justifiable
19 reliance on PHL’s representations and assurances, continue to pay premiums. When
20 PHL represented to Plaintiffs the current death benefit and policy value for their
21 respective Policies, PHL knew and intended that Plaintiffs would: (i) believe that
22 PHL intended to honor their respective Policy and pay the amounts stated; and (ii) in
23 reasonable and justifiable reliance on PHL’s representations and assurances,
24 continue to pay premiums. Each VOC that PHL faxed or mailed to a Plaintiff
25 falsely represented that PHL considered the Policy “in force,” valid and enforceable
26 and that PHL had no plan to challenge the Policy or deny benefits under the Policy.
27 In providing this information to Plaintiffs, PHL fraudulently concealed, and failed to
28 disclose, that it had no intention of paying the amounts stated and intended to deny

1 any claim for benefits and confiscate all premiums paid.

2 128. As described above, many of the Policies were solicited by PHL agents
3 residing in this judicial district. For the Policies noted in paragraph 74 above, the
4 illustrations mailed or faxed to Plaintiffs by PHL each represented that they were
5 prepared by the applicable agent residing in this judicial district. For example, (a)
6 the illustrations mailed or faxed by PHL to the Jane Doe Trust 4 represent that they
7 were “Prepared by: KEVIN BURKE”; (b) the illustrations mailed or faxed by PHL
8 to the John Doe Trust 32 represent that they were “Prepared by: RICHARD SON”;
9 and (c) the illustrations mailed or faxed by PHL to the John Doe Trust 55 represent
10 that they were “Prepared by: ROSSYLN MURIU”. The premium notices mailed to
11 the Trusts noted in paragraph 74 above also refer to the applicable agent residing in
12 this judicial district.

13 129. Plaintiffs are informed and believe, and on such information and belief
14 allege, that PHL and Phoenix Life continue to pay renewal commissions to the
15 agents residing in this judicial district as new premiums are paid on these Policies.
16 Thus, both PHL and its agents residing in this district are benefiting and profiting
17 from Defendants’ fraud.

18 130. Set forth below are representative examples of communications faxed
19 or mailed to Plaintiffs by PHL as part of Defendants’ plan to fraudulently induce
20 Plaintiffs and other policyholders to continue to pay premiums on policies that
21 Defendants secretly intend will not be honored by PHL when death benefits become
22 due. Each of these communications affirmatively misrepresented and fraudulently
23 concealed material facts from Plaintiffs, and, on information and belief, was faxed
24 or mailed with the specific intent to deceive or defraud and with the knowledge that
25 Plaintiffs would be deceived and defrauded:

26 • PHL sent fraudulent communications to the John Doe Trust 1, through its
27 trustee, including but not limited to, communications dated as follows: premium
28 notices of December 6, 2009, December 6, 2010, and December 6, 2011; annual

1 policy summaries of December 29, 2009, December 28, 2010, and December 27,
2 2011; policy illustrations of February 9, 2009, November 16, 2009, December 28,
3 2009, January 10, 2011, and February 8, 2012; and VOC of September 21, 2011.

4 • PHL sent fraudulent communications to the Jane Doe Trust 2, through its
5 trustee, including but not limited to, communications dated as follows: premium
6 notices of February 10, 2009, February 10, 2010 and February 10, 2011; annual
7 policy summaries of March 3, 2009, March 2, 2010 and March 1, 2011; policy
8 illustrations of November 18, 2009, March 3, 2010 and March 14, 2011.

9 • PHL sent fraudulent communications to the John Doe Trust 3, through its
10 trustee, including but not limited to, communications dated as follows: premium
11 notice of May 22, 2010; annual policy summaries of June 11, 2009 and June 11,
12 2010; policy illustrations of November 16, 2009, June 17, 2010, June 16, 2011, and
13 January 19, 2012; and VOC of June 13, 2011.

14 • PHL sent fraudulent communications to the Jane Doe Trust 4, through its
15 trustee, including but not limited to, communications dated as follows: premium
16 notices of April 6, 2010, April 6, 2011 and April 6, 2012; annual policy summaries
17 of April 28, 2009, April 27, 2010, April 26, 2011, and April 26, 2012; policy
18 illustrations of November 16, 2009, April 30, 2010, May 4, 2011, January 17, 2012,
19 and May 9, 2012; and VOC of September 15, 2011.

20 • PHL sent fraudulent communications to the John Doe Trust 5, through its
21 trustee, including but not limited to, communications dated as follows: premium
22 notices of December 19, 2009, December 19, 2010, and December 19, 2011; annual
23 policy summaries of January 8, 2009, January 9, 2010, January 11, 2011, and
24 January 10, 2012; policy illustrations of November 23, 2009, January 20, 2010,
25 January 18, 2011, November 23, 2011, and February 19, 2012; and VOC of
26 September 21, 2011.

27 • PHL sent fraudulent communications to the John Doe Trust 6, through its
28 trustee, including but not limited to, communications dated as follows: premium

1 notices of February 18, 2010, February 18, 2011, and February 18, 2012; annual
2 policy summaries of November 24, 2009, April 9, 2010, April 9, 2011, and March 9,
3 2012; policy illustrations of November 23, 2009, March 16, 2010, March 14, 2011,
4 and April 9, 2012; and VOC of September 21, 2011.

5 • PHL sent fraudulent communications to the Jane Doe Trust 7, through its
6 trustee, including but not limited to, communications dated as follows: premium
7 notices of March 6, 2009, March 6, 2010, March 6, 2011, and March 6, 2012;
8 annual policy summaries of March 26, 2009, March 26, 2010, March 28, 2011, and
9 March 26, 2012; policy illustrations of December 1, 2009, April 6, 2010, March 31,
10 2011, January 4, 2012, and March 27, 2012; and VOC of September 20, 2011.

11 • PHL sent fraudulent communications to the John Doe Trust 8, through its
12 trustee, including but not limited to, communications dated as follows: premium
13 notices of March 7, 2009, March 7, 2010, March 7, 2011, and March 7, 2012;
14 annual policy summaries of March 27, 2009, March 30, 2010, March 28, 2011, and
15 March 27, 2012; policy illustrations of December 8, 2009, April 5, 2010, March 31,
16 2011, and January 4, 2012; and VOC of September 19, 2011.

17 • PHL sent fraudulent communications to the John Doe Trust 9, through its
18 trustee, including but not limited to, communications dated as follows: premium
19 notices of July 31, 2009, July 31, 2010, and July 31, 2011; annual policy summaries
20 of August 26, 2009, August 21, 2010, and August 22, 2011; policy illustrations of
21 August 26, 2009, September 10, 2010, August 29, 2011, and January, 19, 2012; and
22 VOC of June 13, 2011.

23 • PHL sent fraudulent communications to the John Doe Trust 10, through its
24 trustee, including but not limited to, communications dated as follows: premium
25 notices of July 31, 2010 and July 31, 2011; annual policy summaries of August 20,
26 2009, August 21, 2010, and August 22, 2011; policy illustrations of September 20,
27 2010, August 15, 2011, and January 19, 2012; and VOC of June 13, 2011.

28 • PHL sent fraudulent communications to the John Doe Trust 11, through its

1 trustee, including but not limited to, communications dated as follows: premium
2 notices of January 10, 2010, January 10, 2011, and January 10, 2012; annual policy
3 summaries of November 24, 2009, February 2, 2010, February 1, 2011, and January,
4 2012; policy illustrations of February 23, 2009, February 2, 2010, February 17,
5 2011, November 10, 2011, and January 5, 2012; and VOC of September 22, 2011.

6 • PHL sent fraudulent communications to the John Doe Trust 12, through its
7 trustee, including but not limited to, communications dated as follows: premium
8 notice of May 26, 2010; annual policy summaries of June 16, 2010 and June 16,
9 2011; policy illustrations of December 22, 2009, June 23, 2010, June 23, 2011, and
10 February 19, 2012; and VOC of June 13, 2011.

11 • PHL sent fraudulent communications to the John Doe Trust 13, through its
12 trustee, including but not limited to, communications dated as follows: premium
13 notices of March 8, 2009, March 8, 2010, March 8, 2011, and March 8, 2012;
14 annual policy summaries of March 31, 2009, March 30, 2010, March 28, 2011, and
15 March 28, 2012; policy illustrations of December 22, 2009, April 5, 2010, March
16 31, 2011, January 4, 2012, and April 5, 2012; and VOC of September 22, 2011.

17 • PHL sent fraudulent communications to the John Doe Trust 14, through its
18 trustee, including but not limited to, communications dated as follows: premium
19 notices of March 8, 2009, March 8, 2010, March 8, 2011, and March 8, 2012;
20 annual policy summaries of March 31, 2009, March 30, 2010, March 28, 2011, and
21 March 28, 2012; policy illustrations of December 8, 2009, April 5, 2010, March 31,
22 2011, and January 4, 2012; and VOC of September 22, 2011.

23 • PHL sent fraudulent communications to the John Doe Trust 15, through its
24 trustee, including but not limited to, communications dated as follows: premium
25 notices of April 13, 2010 and April 13, 2011; annual policy summaries of May 4,
26 2010 and May 3, 2012; policy illustrations of December 14, 2009, May 4, 2010,
27 May 19, 2011, and January 17, 2012; and VOC of November 9, 2011.

28 • PHL sent fraudulent communications to the John Doe Trust 16, through its

1 trustee, including but not limited to, communications dated as follows: premium
2 notices of March 22, 2010, March 22, 2011, and March 22, 2012; annual policy
3 summaries of April 14, 2009, April 13, 2010, April 12, 2011, and April 11, 2012;
4 policy illustrations of September 29, 2009, May 6, 2010, May 18, 2011, January 17,
5 2012, and May 8, 2012; and VOC of September 22, 2011.

6 • PHL sent fraudulent communications to the John Doe Trust 17, through its
7 trustee, including but not limited to, communications dated as follows: premium
8 notices of March 22, 2010, March 22, 2011, and March 22, 2012; annual policy
9 summaries of April 14, 2009, April 13, 2010, April 12, 2011, and April 11, 2012;
10 policy illustrations of December 14, 2009, April 19, 2010, April 14, 2011, January
11 17, 2012 and May 8, 2012; and VOC of September 22, 2011.

12 • PHL sent fraudulent communications to the John Doe Trust 18, through its
13 trustee, including but not limited to, communications dated as follows: premium
14 notices of April 12, 2010, April 12, 2011, and April 12, 2012; annual policy
15 summaries of December 11, 2009, May 4, 2010, August 1, 2011, and May 8, 2012;
16 policy illustrations of December 10, 2009, May 4, 2010, January 7, 2012, and May
17 4, 2012; and VOCs of November 17, 2011 and December 5, 2011.

18 • PHL sent fraudulent communications to the John Doe Trust 19, through its
19 trustee, including but not limited to, communications dated as follows: premium
20 notices of January 17, 2010, January 17, 2011, and January 17, 2012; annual policy
21 summaries of February 6, 2009, February 9, 2010, February 7, 2011, and February
22 6, 2012; policy illustrations of May 13, 2009, November 30, 2009, February 12,
23 2010, February 9, 2011, January 4, 2012, and February 8, 2012; and VOC of
24 September 21, 2011.

25 • PHL sent fraudulent communications to the John Doe Trust 20, through its
26 trustee, including but not limited to, communications dated as follows: premium
27 notices of March 1, 2009, March 1, 2010, March 1, 2011, and March 1, 2012;
28 annual policy summaries of March 24, 2009, April 14, 2010, March 22, 2011, and

1 March 21, 2012; policy illustrations of December 14, 2009, March 23, 2010, April
2 27, 2011, January 4, 2012 and March 23, 2012; and VOC of September 20, 2011.

3 • PHL sent fraudulent communications to the John Doe Trust 21, through its
4 trustee, including but not limited to, communications dated as follows: premium
5 notices of February 10, 2009, February 10, 2010, February 10, 2011, and February
6 10, 2012; annual policy summaries of March 3, 2009, March 2, 2010, March 1,
7 2011, and March 1, 2012; policy illustrations of November 30, 2009, March 17,
8 2010, March 14, 2011, January 4, 2012, and March 8, 2012; and VOC of September
9 21, 2011.

10 • PHL sent fraudulent communications to the Jane Doe Trust 22, through its
11 trustee, including but not limited to, communications dated as follows: premium
12 notices of March 22, 2010, March 22, 2011, and March 22, 2012; annual policy
13 summaries of November 10, 2009, April 13, 2010, April 12, 2011, and April 11,
14 2012; policy illustrations of December 10, 2009, April 19, 2010, January 17, 2012
15 and April 13, 2012; and VOC of September 22, 2011.

16 • PHL sent fraudulent communications to the John Doe Trust 23, through its
17 trustee, including but not limited to, communications dated as follows: premium
18 notices of February 23, 2009, February 23, 2010, February 23, 2011, and February
19 23, 2012; annual policy summaries of March 17, 2009, March 16, 2010, March 15,
20 2011, and March 16, 2012; policy illustrations of December 10, 2009, March 16,
21 2010, March 18, 2011, January 14, 2012 and March 19, 2012; and VOC of
22 September 21, 2011.

23 • PHL sent fraudulent communications to the John Doe Trust 24, through its
24 trustee, including but not limited to, communications dated as follows: premium
25 notices of March 30, 2010, March 30, 2011, and March 30, 2012; annual policy
26 summaries of April 20, 2009, April 20, 2010, April 20, 2011, and April 19, 2012;
27 policy illustrations of December 10, 2009, April 20, 2010, April 27, 2011, and May
28 9, 2012; and VOC of September 22, 2011.

1 • PHL sent fraudulent communications to the John Doe Trust 25, through its
2 trustee, including but not limited to, communications dated as follows: premium
3 notices of April 12, 2009, April 12, 2010, April 12, 2011, and April 12, 2012;
4 annual policy summaries of May 5, 2009, May 4, 2010, and May 8, 2012; policy
5 illustrations of December 10, 2009, May 4, 2010, January 17, 2012 and May 4,
6 2012; and VOC of November 9, 2011.

7 • PHL sent fraudulent communications to the John Doe Trust 26, through its
8 trustee, including but not limited to, communications dated as follows: premium
9 notices of March 1, 2010, March 1, 2011, and March 1, 2012; annual policy
10 summaries of March 24, 2009, March 22, 2010, March 22, 2011, and March 21,
11 2012; policy illustrations of December 1, 2009, March 23, 2010, March 23, 2010,
12 January 4, 2012 and March 23, 2012; and VOC of September 20, 2011.

13 • PHL sent fraudulent communications to the Jane Doe Trust 27, through its
14 trustee, including but not limited to, communications dated as follows: premium
15 notice of November 20, 2010; annual policy summaries of December 10, 2009,
16 December 11, 2009, and December 13, 2011; policy illustrations of January 5, 2010,
17 December 15, 2010, December 15, 2011 and February 8, 2012; and VOC of
18 September 15, 2011.

19 • PHL sent fraudulent communications to the John Doe Trust 28, through its
20 trustee, including but not limited to, communications dated as follows: premium
21 notice of May 31, 2008; annual policy summaries of June 23, 2009, September 28,
22 2010, and June 20, 2011; policy illustrations of December 29, 2009, June 23, 2010,
23 June 27, 2011, and January 19, 2012; and VOC of June 13, 2011.

24 • PHL sent fraudulent communications to the John Doe Trust 29, through its
25 trustee, including but not limited to, communications dated as follows: premium
26 notices of July 16, 2010 and July 16, 2011; annual policy summaries of August 5,
27 2010 and August 5, 2011; policy illustrations of December 15, 2009, September 1,
28 2010, August 15, 2011 and January 19, 2012; and VOC of June 13, 2011.

1 • PHL sent fraudulent communications to the John Doe Trust 30, through its
2 trustee, including but not limited to, communications dated as follows: premium
3 notices of January 16, 2011 and January 16, 2012; annual policy summaries of
4 February 5, 2010, February 7, 2011, and February 6, 2012; policy illustrations of
5 March 2, 2010, February 16, 2011, January 4, 2012 and February 8, 2012; and VOC
6 of September 15, 2011.

7 • PHL sent fraudulent communications to the John Doe Trust 31, through its
8 trustee, including but not limited to, communications dated as follows: premium
9 notice of June 5, 2010; annual policy summaries of June 26, 2010 and June 28,
10 2011; policy illustrations of December 14, 2009, June 28, 2010, July 12, 2011, and
11 January 19, 2012; and VOC of June 13, 2011.

12 • PHL sent fraudulent communications to the John Doe Trust 32, through its
13 trustee, including but not limited to, communications dated as follows: premium
14 notices of November 21, 2010 and November 21, 2011; annual policy summaries of
15 December 11, 2009, December 14, 2010, and December 13, 2011; policy
16 illustrations of March 4, 2010, December 21, 2010, December 15, 2011, and
17 February 8, 2012; and VOC of September 15, 2011.

18 • PHL sent fraudulent communications to the John Doe Trust 33, through its
19 trustee, including but not limited to, communications dated as follows: premium
20 notices of August 1, 2010 and August 1, 2011; annual policy summaries of August
21 23, 2010 and August 22, 2011; policy illustrations of December 15, 2009, August
22 24, 2010, August 29, 2011, and January 19, 2012; and VOC of June 13, 2011.

23 • PHL sent fraudulent communications to the John Doe Trust 34, through its
24 trustee, including but not limited to, communications dated as follows: premium
25 notices of June 29, 2009 and June 29, 2010; annual policy summaries of July 19,
26 2010 and July 19, 2011; policy illustrations of December 15, 2009, July 22, 2010,
27 July 20, 2011 and January 19, 2012; and VOC of June 13, 2011.

28 • PHL sent fraudulent communications to the John Doe Trust 35, through its

1 trustee, including but not limited to, communications dated as follows: premium
2 notices of July 21, 2009, July 21, 2010, and July 21, 2011; annual policy summaries
3 of August 11, 2009 and August 10, 2010; policy illustrations of December 15, 2009,
4 September 10, 2010, August 11, 2011, August 15, 2011 and January 19, 2012; and
5 VOC of June 13, 2011.

6 • PHL sent fraudulent communications to the John Doe Trust 36, through its
7 trustee, including but not limited to, communications dated as follows: premium
8 notices of January 5, 2011 and January 5, 2012; annual policy summaries of January
9 26, 2010, January 25, 2011, and January 25, 2012; policy illustrations of March 2,
10 2010, February 9, 2011, November 29, 2011, and January 31, 2012; and VOC of
11 September 15, 2011.

12 • PHL sent fraudulent communications to the Jane Doe Trust 37, through its
13 trustee, including but not limited to, communications dated as follows: premium
14 notices of September 5, 2009, September 5, 2010, and September 5, 2011; annual
15 policy summaries of September 26, 2009, September 28, 2010, and September 30,
16 2011; policy illustrations of December 22, 2009, March 30, 2010, August 29, 2011,
17 September 29, 2011, and January 24, 2012; and VOC of July 12, 2011.

18 • PHL sent fraudulent communications to the John Doe Trust 38, through its
19 trustee, including but not limited to, communications dated as follows: premium
20 notice of August 17, 2011; annual policy summaries of September 8, 2010 and
21 September 7, 2011; policy illustrations of December 22, 2009, October 5, 2010,
22 August 9, 2011, August 22, 2011, September 12, 2011, and January 24, 2012; and
23 VOCs of June 13, 2011 and July 14, 2011.

24 • PHL sent fraudulent communications to the John Doe Trust 39, through its
25 trustee, including but not limited to, communications dated as follows: premium
26 notices of November 15, 2010 and November 15, 2011; annual policy summaries of
27 December 8, 2009, December 7, 2010, and December 5, 2011; policy illustrations of
28 December 22, 2009, December 5, 2011, and February 8, 2012; and VOC of

1 September 15, 2011.

2 • PHL sent fraudulent communications to the Jane Doe Trust 40, through its
3 trustee, including but not limited to, communications dated as follows: premium
4 notices of April 26, 2011 and April 26, 2012; annual policy summary of June 3,
5 2010; policy illustrations of June 3, 2010, May 20, 2011, and January 17, 2012; and
6 VOC of June 13, 2011.

7 • PHL sent fraudulent communications to the John Doe Trust 41, through its
8 trustee, including but not limited to, communications dated as follows: premium
9 notice of October 6, 2010; annual policy summaries of October 27, 2009, October
10 26, 2010, and October 26, 2011; policy illustrations of January 5, 2010, November
11 3, 2010, November 1, 2011, and January 24, 2012; and VOC of July 12, 2011.

12 • PHL sent fraudulent communications to the Jane Doe Trust 42, through its
13 trustee, including but not limited to, communications dated as follows: premium
14 notices of April 19, 2010, April 19, 2011 and April 19, 2012; annual policy
15 summaries of May 11, 2010 and May 9, 2012; policy illustrations of December 14,
16 2009, May 11, 2010, May 19, 2011, January 17, 2011, and May 16, 2012.

17 • PHL sent fraudulent communications to the Jane Doe Trust 43, through its
18 trustee, including but not limited to, communications dated as follows: premium
19 notices of September 30, 2009, September 30, 2010, and September 30, 2011;
20 annual policy summaries of October 20, 2009, October 20, 2010, and October 20,
21 2011; policy illustrations of January 2, 2010, November 3, 2010, November 16,
22 2011, December 19, 2011, and March 1, 2012; and VOC of July 12, 2011.

23 • PHL sent fraudulent communications to the John Doe Trust 44, through its
24 trustee, including but not limited to, communications dated as follows: premium
25 notices of October 20, 2010 and October 20, 2011; annual policy summaries of
26 November 10, 2009, November 9, 2010, and November 9, 2011; policy illustrations
27 of January 5, 2010, November 16, 2010, November 17, 2011, and February 6, 2012;
28 and VOC of July 12, 2011.

1 • PHL sent fraudulent communications to the John Doe Trust 45, through its
2 trustee, including but not limited to, communications dated as follows: premium
3 notices of November 7, 2010 and November 7, 2011; annual policy summaries of
4 November 27, 2009, November 30, 2010, and December 2, 2011; policy
5 illustrations of December 15, 2009, December 1, 2010, November 30, 2011, and
6 February 8, 2012; and VOC of July 12, 2011.

7 • PHL sent fraudulent communications to the John Doe Trust 46, through its
8 trustee, including but not limited to, communications dated as follows: premium
9 notices of January 9, 2011 and January 9, 2012; annual policy summaries of January
10 29, 2010, February 1, 2011, and February 1, 2012; policy illustrations of March 2,
11 2010, February 1, 2011, November 29, 2011, and February 1, 2012; and VOC of
12 September 15, 2011.

13 • PHL sent fraudulent communications to the Jane Doe Trust 47, through its
14 trustee, including but not limited to, communications dated as follows: premium
15 notices of January 4, 2009 and January 4, 2012; annual policy summaries of January
16 26, 2010, January 27, 2011, and January 24, 2012; policy illustrations of March 2,
17 2010, January 27, 2011, November 29, 2011, January 25, 2012, and January 31,
18 2012; and VOC of September 15, 2011.

19 • PHL sent fraudulent communications to the John Doe Trust 48, through its
20 trustee, including but not limited to, communications dated as follows: premium
21 notices of November 20, 2010 and November 20, 2011; annual policy summaries of
22 December 10, 2009, December 11, 2010, and December 13, 2011; policy
23 illustrations of January 5, 2010, December 15, 2010, December 15, 2011, and
24 February 8, 2012; and VOC of September 15, 2011.

25 • PHL sent fraudulent communications to the John Doe Trust 49, through its
26 trustee, including but not limited to, communications dated as follows: premium
27 notices of August 24, 2010 and August 24, 2011; annual policy summaries of
28 September 15, 2009, September 14, 2010, and September 13, 2011; policy

1 illustrations of December 17, 2009, September 20, 2010, August 22, 2011,
2 September 21, 2011, and January 24, 2012; and VOC of July 14, 2011.

3 • PHL sent fraudulent communications to the John Doe Trust 50, through its
4 trustee, including but not limited to, communications dated as follows: premium
5 notices of August 24, 2010 and August 24, 2011; annual policy summaries of
6 September 15, 2009, September 14, 2010, September 13, 2011; and policy
7 illustrations of December 17, 2009, September 20, 2010, August 22, 2011,
8 September 21, 2011, and January 24, 2012; and VOC of July 14, 2011.

9 • PHL sent fraudulent communications to the John Doe Trust 51, through its
10 trustee, including but not limited to, communications dated as follows: premium
11 notices of July 23, 2009, July 23, 2010, and July 23, 2011; annual policy summaries
12 of August 12, 2009, August 12, 2010, and August 17, 2011; policy illustrations of
13 November 16, 2009, September 10, 2010, August 8, 2011, August 15, 2011, August
14 29, 2011, and January 19, 2012; and VOC of June 13, 2011.

15 • PHL sent fraudulent communications to the John Doe Trust 52, through its
16 trustee, including but not limited to, communications dated as follows: premium
17 notices of December 3, 2010 and December 3, 2011; annual policy summaries of
18 January 13, 2010, December 23, 2010, and December 23, 2011; policy illustrations
19 of January 13, 2010, January 6, 2011, and February 8, 2012; and VOC of September
20 15, 2011.

21 • PHL sent fraudulent communications to the John Doe Trust 53, through its
22 trustee, including but not limited to, communications dated as follows: premium
23 notices of December 3, 2010 and December 3, 2011; annual policy summaries of
24 January 13, 2010, December 23, 2010, and December 23, 2011; policy illustrations
25 of January 13, 2010, December 29, 2010, and February 8, 2012; and VOC of
26 September 15, 2011.

27 • PHL sent fraudulent communications to the John Doe Trust 54, through its
28 trustee, including but not limited to, communications dated as follows: premium

1 notices of August 24, 2010 and August 24, 2011; annual policy summaries of
2 September 15, 2009, September 15, 2010, and September 13, 2011; policy
3 illustrations of December 22, 2009, September 20, 2010, August 22, 2011,
4 September 21, 2011, January 24, 2011, and March 1, 2011; and VOC of July 14,
5 2011.

6 • PHL sent fraudulent communications to the John Doe Trust 55, through its
7 trustee, including but not limited to, communications dated as follows: premium
8 notices of August 24, 2010 and August 24, 2011; annual policy summaries of
9 September 15, 2009, September 14, 2010, and September 13, 2011; policy
10 illustrations of December 22, 2009, September 20, 2010, August 22, 2011,
11 September 21, 2011, and January 24, 2012; and VOC of July 12, 2011.

12 • PHL sent fraudulent communications to the John Doe Trust 56, through its
13 trustee, including but not limited to, communications dated as follows: premium
14 notices of March 19, 2009, March 19, 2010, March 19, 2011, and March 19, 2012;
15 annual policy summaries of April 8, 2009, April 8, 2010, April 8, 2011, and April 9,
16 2012; policy illustrations of June 9, 2009, December 10, 2009, April 19, 2010, and
17 January 17, 2012; and VOC of September 21, 2011.

18 • PHL sent fraudulent communications to the John Doe Trust 57, through its
19 trustee, including but not limited to, communications dated as follows: premium
20 notices of August 4, 2010 and August 4, 2011; annual policy summaries of August
21 24, 2010 and August 24, 2011; policy illustrations of December 17, 2009, August
22 27, 2010, August 29, 2011, and January 19, 2012; and VOC of June 13, 2011.

23 • PHL sent fraudulent communications to the John Doe Trust 58, through its
24 trustee, including but not limited to, communications dated as follows: premium
25 notices of September 21, 2009, September 21, 2010, and September 21, 2011;
26 annual policy summaries of October 13, 2009, October 12, 2010, and October 11,
27 2011; policy illustrations of January 5, 2010, October 12, 2010, October 31, 2011,
28 and January 24, 2012; and VOC of July 12, 2011.

1 • PHL sent fraudulent communications to the John Doe Trust 59, through its
2 trustee, including but not limited to, communications dated as follows: premium
3 notices of July 14, 2009, July 14, 2010, and July 14, 2011; annual policy summaries
4 of October 13, 2009, August 3, 2010, and August 3, 2011; policy illustrations of
5 October 13, 2009, August 12, 2010, August 8, 2011, August 15, 2011, and January
6 19, 2012; and VOC of June 13, 2011.

7 • PHL sent fraudulent communications to the John Doe Trust 60, through its
8 trustee, including but not limited to, communications dated as follows: premium
9 notices of August 2, 2010 and August 2, 2011; annual policy summaries of August
10 23, 2010 and August 22, 2011; policy illustrations of December 17, 2009, August
11 24, 2010, August 8, 2011, August 15, 2011, August 29, 2011, and January 19, 2012;
12 and VOC of June 13, 2011.

13 131. In furtherance of Defendants’ fraudulent scheme, PHL (specifically,
14 Phoenix Life representatives acting on behalf of PHL), faxed or mailed each
15 Plaintiff a document entitled “Policy Audit Request for Life Insurance Policy”
16 (“Policy Audit”) which again misrepresented and concealed material facts about
17 each Plaintiff’s Policy.

18 132. On or about January 5, 2012, Wilmington Savings, as successor in
19 interest to Christiana Bank in its capacity as trustee for Plaintiffs, provided
20 PHL/Phoenix Life with a “schedule of policies” and asked that a “Policy Audit
21 request form” be completed to update the records for the Policies. The letter
22 requested that PHL/Phoenix Life provide this information to Pricewaterhouse
23 Coopers LLP and the trustee.

24 133. In response to the trustee’s request, PHL (by Phoenix Life) sent a
25 Policy Audit for each Policy by mail using the United States Postal Service and/or
26 by fax using interstate wires. In response to the Policy Audit question “Is the above
27 referenced policy in force,” PHL answered and represented “YES” for each Policy.
28 The Policy Audit also confirmed the current death benefit for that Policy. The

1 Policy Audits faxed and mailed to each Plaintiff fraudulently concealed, and failed
2 to disclose, that PHL did not intend to pay the amounts stated, but instead intended
3 to deny any claim for benefits and to confiscate all premiums paid. PHL faxed and
4 mailed Plaintiffs the Policy Audits in furtherance of Defendants’ plan to defraud
5 Plaintiffs into paying premiums for Policies PHL intends to challenge and to earn
6 additional premium revenue for PHL which PHL does not intend to return.

7 134. The Policy Audits faxed and/or mailed to Plaintiffs each affirmatively
8 misrepresented and fraudulently concealed facts from Plaintiffs. When PHL
9 answered and represented “YES” in response to the question “Is the above
10 referenced policy in force,” PHL knew and intended that the Plaintiffs would: (i)
11 believe that PHL intended to honor the Policy issued to it and pay the amounts
12 stated; and (ii) in reasonable and justifiable reliance on PHL’s representations and
13 assurances, continue to pay premiums. When PHL represented to a Plaintiff the
14 amounts of the current death benefit for that Plaintiff’s Policy, PHL knew and
15 intended that the Plaintiff would: (i) believe that PHL intended to honor the Policy;
16 and (ii) pay the amounts stated and, in reasonable and justifiable reliance on PHL’s
17 representations and assurances, continue to pay premiums. The Policy Audits faxed
18 and mailed to Plaintiffs by PHL each falsely represented that PHL considered the
19 Policy in question “in force,” valid and enforceable and that PHL had no plan to
20 challenge the Policy or deny benefits under the Policy. PHL fraudulently concealed
21 that it has no intention of paying the amounts stated, and instead intended to deny
22 any claim for benefits and to confiscate all premiums paid.

23 135. Notably, and in an egregious example of Defendants’ fraudulent
24 practices, PHL sent such fraudulent Policy Audits to the John Doe Trust 1, John Doe
25 Trust 22, and Jane Doe Trust 43 and then sued to rescind the Policies owned by
26 these Trusts – which PHL had just represented were “in force” – less than two
27 months later.
28

1 **C. PHL Unlawfully Increases Its Cost Of Insurance Charges As**
2 **Part Of Defendants’ Plan To Destroy The Value Of Their**
3 **Policyholders’ Policies And Force Policyholders To Lapse**
4 **Their Policies**

5 136. PHL has also willfully breached the Policies and numerous other
6 policies in an attempt to intimidate Plaintiffs and other policyholders into lapsing
7 their policies. Phoenix Life has engaged in the same conduct with respect to
8 policies it issued. Such conduct is in furtherance of Defendants’ scheme to evade
9 their contractual obligations to Plaintiffs and other policyholders and gain a windfall
10 by retaining many years worth of premiums paid for lapsed policies.

11 137. The first way in which PHL has breached the Policies and other
12 policies is by unlawfully raising the COI charges for the Policies, in direct violation
13 of the terms of the Policies. These breaches were done willfully and in bad faith, as
14 their sole purpose was to attempt to force Plaintiffs, and other policyholders, into
15 letting their Policies lapse and thus earning PHL an undeserved windfall. These
16 actions by PHL are identical to actions Phoenix Life has impermissibly taken with
17 respect to policies it issued to certain of its policyholders. Defendants are thus
18 engaged in a concerted effort to breach their policies and improperly attempt to
19 force their policyholders into letting their policies lapse to the policyholders’
20 detriment and Defendants’ benefit.

21 138. The Policies each provide that they will remain in force as long as there
22 are sufficient funds in the policy account to cover specific monthly deductions set
23 forth in the Policies. The most significant of these deductions is the COI charge,
24 which reflects the price charged by PHL to cover the risk of paying the death
25 benefit. The COI charge is determined by multiplying the COI rate times the net
26 amount at risk.

27 139. The Policies allow PHL to change the COI rate, but only under very
28 specific circumstances set forth therein. Specifically, the Policies provide that

1 changes in cost of insurance rates: (i) will be based on PHL's expectations of "future
2 mortality, persistency, investment earnings, expense experience, capital reserve
3 requirements and tax assumptions"; (ii) will "not discriminate unfairly within any
4 class of insureds"; and (iii) "will not distribute past gains or recoup prior losses."

5 140. Therefore, under the express terms of the Policies, PHL may only
6 change COI rates based on a change in PHL's expectation of mortality, persistency
7 and other specified factors. Additionally, any change in the COI rates must be made
8 on a uniform basis for all insureds in the same class and cannot be used to recoup
9 PHL's prior losses.

10 141. The Policies' strict limitation on when COI rates may be increased is a
11 material provision. The Policies are flexible-premium, universal life policies. This
12 type of policy provides significant flexibility to the policyholder. A policyholder
13 may choose to pay more into the account in premiums and accumulate tax-deferred
14 interest. Or, if a policyholder wants to invest funds elsewhere, the policyholder may
15 choose to pay only enough to cover monthly policy charges. If the COI rates could
16 simply be increased whenever the insurer wished, the flexibility in premium
17 payments which is the selling point of such policies would be wholly illusory.

18 142. Defendants marketed and sold their policies, including the Policies, as
19 "flexible premium" policies, knowing that this flexibility would appeal to investors
20 wishing to seek a competitive return on their investments and to avoid paying more
21 premiums than needed to keep their policies in force. Among other things,
22 Defendants represented that these policies: (i) give policyholders the "opportunity to
23 lower premiums, as well as adjust the amount and timing of premium payments"
24 (Press Release dated April 3, 2006); (ii) are "designed to balance protection and
25 cash accumulation with features suited to meet policyholders' evolving personal or
26 business needs" (Press Release dated April 3, 2006); and (iii) are "appropriate to
27 those looking to minimize long term insurance costs while seeking competitive
28 returns" (Press Release dated June 19, 2003).

1 143. Despite the explicit language in the Policies limiting the circumstances
2 under which the COI rates may be increased, and the fact that Defendants heavily
3 marketed such policies as permitting policyholders to pay the minimum premiums
4 needed to keep their policies in force, PHL and Phoenix Life have twice unlawfully
5 raised their COI rates, targeting the very policyholders who used their policies in the
6 way Defendants designed and marketed them. Both increases were part of
7 Defendants' overall scheme to force policyholders into allowing their policies to
8 lapse; the second unlawful increase breached the Policies. PHL and Phoenix Life
9 have raised their COI rates in a targeted effort against policies they believe have
10 become owned by investors, as investors frequently choose to pay only the
11 minimum premiums required to keep a policy in force rather than attempting to
12 build up the accumulated policy value.

13 144. In March 2010, PHL and Phoenix Life began sending letters to a
14 subset, but not all, of their universal life policyholders, announcing that a COI rate
15 increase would affect their policies if their accumulated policy value was not high
16 enough. The letters stated in pertinent part:

17 We are sending you this letter to inform you that on April
18 1, 2010, we are increasing cost of insurance rates on
19 certain Phoenix Accumulator Universal Life policies.
20 Your policy referenced above will be subject to this rate
21 increase on your next policy anniversary beginning
22 11/1/2010 unless your accumulated policy value is
23 maintained at a sufficient level....The amount of the
24 increase will vary based on the accumulated amount of
25 your policy value. In general, maintaining higher levels of
26 policy value in relation to the face amount will reduce or
27 even eliminate the increase.

28 145. This first COI rate increase by PHL and Phoenix Life was unlawful in

1 several respects.

2 146. First, there is nothing in PHL's and Phoenix Life's policies that allows
3 them to increase COI rates based on the accumulated policy value. Indeed, the
4 policies were marketed and purchased for the purpose of keeping the accumulated
5 policy value low.

6 147. Second, the COI rate increase was unlawful because it did not apply to
7 an entire class of insureds, but only to those who maintain lower accumulated policy
8 values.

9 148. Third, the rate increase was unlawful because the life expectancies of
10 insureds have increased, not decreased. COI rates are the rates that PHL and
11 Phoenix Life charge to cover death benefits, and thus should properly be driven
12 primarily by expectations of future mortality. Given that insureds are now living
13 longer, PHL and Phoenix Life have no legitimate justification for raising costs
14 intended to cover the risk of insureds' earlier death

15 149. Fourth, the COI rate increases were unlawful because they were, on
16 information and belief, intended to recoup prior losses by Defendants.

17 150. Defendants' conduct with respect to the COI increases makes clear that
18 they know they are acting improperly. Shrouding its actions in secrecy, PHL has
19 refused to disclose the precise methodology used to calculate the COI rates, or even
20 what those rates are. Phoenix Life has done the same. Rather, in order to estimate
21 the impact of the rate increases, policyholders have been forced to request
22 illustrations for their respective policies. Further recognizing that their behavior was
23 improper, Defendants warned their shareholders that Defendants' actions would
24 likely result in litigation. Phoenix 2010 Form 10-K at 12 ("Effective April 1, 2010
25 we implemented an increase in the cost of insurance rates for certain universal life
26 policies [which] may adversely affect our relationships with distributors, future sales
27 and surrenders, and may result in claims against us by our policyholders.")

28 151. Defendants' goal in increasing COI rates was clearly to force

1 policyholders into the unpalatable choice of either paying premiums which would
2 no longer justify the death benefit under the policy or to lapse their policy and
3 surrender all premiums to Defendants. These unlawful efforts appear to have been
4 successful. Defendants announced during their second quarter 2010 conference call
5 that they had seen an increase in policy lapses due to a number of factors, including
6 the “cost of insurance rate increase we announced for a subset of policies in our
7 product line.”

8 152. In October 2011, PHL and Phoenix Life announced a second unlawful
9 COI increase, which impacted and breached the Policies. The letters sent to
10 Plaintiffs and other policyholders did not explain the basis for the increase, instead
11 stating cryptically that:

12 We are sending you this letter to inform you that on
13 November 1, 2011, we are increasing cost of insurance
14 rates on certain Phoenix Accumulator Universal Life
15 policies, including your policy referenced above...This
16 change will go into effect on your next policy anniversary
17 on or after November 1, 2011. As background, we review
18 our cost of insurance rates periodically to determine
19 whether they should be changed and take action only when
20 the rates are too low or too high relative to our current
21 actuarial and financial expectations related to the policies.
22 This change is in accordance with the terms of your
23 policy, and all currently payable rates for the cost of
24 insurance remain below the maximum guaranteed rate
25 contained in your policy contract.

26 153. PHL cannot raise COI rates based on “actuarial and financial
27 expectations” as they are not listed in the Policies as permissible reasons for raising
28 COI rates. Moreover, on information and belief, the second COI increase was again

1 based largely on the level of accumulated policy value. PHL has simply avoided
2 stating what the increases were based on in an effort to make the increases appear
3 legitimate.

4 154. Further, the second COI increase, like the first, discriminates unfairly
5 within the same class of insureds and was an improper effort to recoup prior losses
6 by Defendants. Both increases are targeted at certain owners (namely policies
7 which Defendants believe have become investor-owned). The COI rate increase
8 does not affect thousands of other similar universal life policies, and PHL has not
9 announced COI rate increases for other policies. If PHL had in fact revised its
10 actuarial or investment expectations, as it claims, the COI rate increases would have
11 affected a broad range of policies, not an unspecified subset of universal policies.

12 155. The COI rate increase was a breach of the Policies. Plaintiffs have
13 been damaged by such breaches in two distinct ways. First, Plaintiffs have been
14 damaged because they are being forced to pay larger premiums than required under
15 the Policies. Second, PHL's raising of the COI rates has significantly impaired the
16 value of the Policies on the secondary market, as PHL has attempted to destroy one
17 of the most valuable features of the Policies, which was the ability to only pay
18 premiums necessary to keep the Policies in force.

19 156. Plaintiffs are not the first policyholders who have been forced to sue
20 PHL or Phoenix Life regarding their improper COI increases. Rather, at least two
21 other lawsuits have been filed against Defendants regarding their unlawful
22 increases. *U.S. Bank National Association v. PHL Variable Insurance Company*,
23 Case No. 11-CV-09517, United States District Court for the Central District of
24 California, Western Division; *Martin Fleisher, as trustee of the Michael Moss*
25 *Irrevocable Life Insurance Trust II, et al., v. Phoenix Life Insurance Company*, Case
26 No. 11-CV-8405, United States District Court for the Southern District of New
27 York. Further, on information and belief, at least one state Insurance Department
28 (New York) has already ordered Phoenix Life to reverse the first of the unlawful

1 COI increases.

2 157. Rather than admitting their wrongful actions when confronted, and
3 abiding by the terms of their policies with respect to COI rates, on information and
4 belief, Defendants have made a business decision to retaliate against those who have
5 challenged their COI rate increases and who Defendants believe reported their
6 unlawful actions to regulatory authorities, by denying all claims submitted by any
7 policyholders who have bravely stood up against Defendants' unlawful actions.
8 Indeed, two policyholders have already been forced to sue PHL for the death
9 benefits under their policies, after PHL denied their claims in retaliation for having
10 stood up against the COI rate increases. *See U.S. Bank National Association v. PHL*
11 *Variable Insurance Company*, Case No. 12-CV-0347, United States District Court
12 for the Central District of California, Western Division; *U.S. Bank National*
13 *Association v. PHL Variable Insurance Company*, Case No. 12-CV-00877, United
14 States District Court for the District of Minnesota.

15 158. Contrary to Defendants' plan, Plaintiffs will not be intimidated into
16 accepting PHL's unlawful COI rate increases or into lapsing their Policies for no
17 consideration. Plaintiffs therefore seek a judicial declaration that the increases were
18 improper and damages for PHL's breach of the Policies.

19 **D. PHL Unlawfully Attempts To Restrict Plaintiffs' Rights To**
20 **Transfer The Policies Or Beneficial Interests In The Trusts,**
21 **As Part Of Defendants' Plan To Destroy The Value Of Their**
22 **Policyholders' Policies And Force Lapses**

23 159. As another aspect of Defendants' efforts to deprive Plaintiffs, and other
24 policyholders, of their contractual rights, PHL has engaged in improper and
25 unlawful conduct aimed at preventing Plaintiffs from exercising their contractual
26 rights to transfer their Policies or interests in the entities that own the Policies. PHL
27 and Phoenix Life have both engaged in similar conduct with respect to other
28 policyholders as part of a systematic effort by Defendants to deprive their

1 policyholders of valuable rights, destroy or impair the value of their policies, and
2 intimidate policyholders into lapsing their policies.

3 160. The Policies are form PHL policies and, like other PHL policies,
4 expressly provide that Plaintiffs may: (i) change ownership of the Policy; (ii) change
5 the Policy beneficiary; and (iii) assign Policy rights to a third party. Further, the
6 Policies do not limit the rights or ability to transfer ownership or beneficial interests
7 in trusts or other entities which own PHL's policies. Upon information and belief,
8 Phoenix Life's policies contain substantially similar provisions. These are
9 important and valuable policyholder rights, and were a significant inducement to
10 Plaintiffs' purchase of the Policies.

11 161. Despite explicitly promising Plaintiffs and other policyholders that
12 their Policies were freely transferable, and placing no contractual limitation on the
13 ability to change or transfer beneficial interests in trusts which own PHL and
14 Phoenix Life policies, PHL and Phoenix Life have attempted to deprive Plaintiffs
15 and other policyholders of these valuable policy rights.

16 162. With respect to each of the Policies, when Christiana Bank became the
17 new trustee of the Plaintiff Trusts, PHL retroactively demanded in a "Certificate and
18 Acknowledgment of Trust Agreement" that it be advised within 30 days of any
19 future transfer of the beneficial interest in any of the Plaintiff Trusts. Based on
20 PHL's conduct and pattern and practice, it is clear that if it is advised of any such
21 transfer, PHL will attempt to rescind the subject Policy based on a purported lack of
22 insurable interest. PHL had no right under the Policies to make this demand as a
23 condition for acknowledging Christiana Bank as the new trustee. By insisting that
24 Plaintiffs comply with such extracontractual conditions, PHL has further breached
25 the Policies.

26 163. PHL's conduct in attempting to restrict the Plaintiff Trusts' contractual
27 rights to transfer their Policies or interests in the Plaintiff Trusts is part of a larger
28 pattern of conduct by Defendants aimed at destroying their policyholders' transfer

1 rights and thus diminishing the value of their policies.

2 164. Although Defendants' policies all provide that they are freely
3 transferable, when policyholders actually attempt to exercise their contractual right
4 to transfer the policy or assign the policy, Defendants routinely deny their requests
5 (which Defendants have no right to do under the policies) and seek to rescind the
6 policy and confiscate the premiums paid for the policy on the grounds that the
7 policies purportedly lack an insurable interest.

8 165. By refusing to process and acknowledge policy transfers, and seeking
9 to rescind policies when policyholders attempt to exercise their transfer rights,
10 Defendants attempt to intimidate policyholders into lapsing their policies for no
11 consideration and to destroy the value of the policies on the secondary market.

12 166. Plaintiffs are not the first policyholders who have been forced to take
13 action to prevent Defendants from breaching their policies by unlawfully restricting
14 their transfer rights. Indeed, PHL and Phoenix Life have both already been sued in
15 California state court by approximately thirty different policyholders for improperly
16 refusing to acknowledge and process changes of ownership and changes of the
17 beneficiary with respect to their policies. *See, e.g., Alan H. Fenton, as Trustee for*
18 *the Dan Tana Irrevocable Life Insurance Trust II, et al. v. PHL Variable Insurance*
19 *Company*, Case No. BC416600, Superior Court for California, County of Los
20 Angeles and *Alan H. Fenton, as Trustee for William Harville Irrevocable Life*
21 *Insurance Trust, et al. v. Phoenix Life Insurance Company*, Case No. 1340238,
22 Superior Court of California, County of Santa Barbara. (These actions have been
23 coordinated before the Superior Court of California, County of Santa Barbara, in
24 Judicial Council Coordination Proceeding No. CORD 4612.)

25 167. The ability to transfer a policy for consideration, or to transfer the
26 beneficial interest in a policy-owning trust for consideration, is a significant right
27 which increases the market value for a policy. PHL's attempt to restrict Plaintiffs'
28 transfer rights with respect to their Policies has damaged the value of the Policies

1 and harmed Plaintiffs.

2 **FIRST CLAIM FOR RELIEF**

3 **(Against Defendants For Violation of 18 U.S.C. § 1962 (c))**

4 168. Plaintiffs refer to above paragraphs 1 through 167, inclusive, and by
5 this reference incorporate the same herein as though fully set forth.

6 169. According to the 2011 Annual Report for PNX dated March 15, 2012,
7 PNX is a holding company incorporated in Delaware whose principal operating
8 subsidiaries, Phoenix Life and its indirect subsidiary PHL, provide life insurance
9 and annuity products. The 2011 Annual Report represents that, as of December 31,
10 2011, PNX's operating subsidiaries had \$43.5 billion of net life insurance in force
11 and \$4.5 billion of annuity assets under management. PNX reports that it also has
12 expanded sales of other insurance companies' policies through a distribution
13 subsidiary, Saybrus Partners, Inc. PNX's 2011 Annual Report describes two distinct
14 operational business segments: a "Life and Annuity segment" and a "Saybrus
15 segment." Plaintiffs are informed and believe, and upon such information and belief
16 allege, that, at all relevant times herein, the Life and Annuity segment (the
17 "Enterprise") was and is an association in fact comprised of PNX and its operating
18 subsidiaries, including PHL and Phoenix Life, which provide life insurance and
19 annuity products.

20 170. Plaintiffs are informed and believe, and upon such information and
21 belief allege, that, at all relevant times herein, the Enterprise has had structure, a
22 hierarchy and a legitimate purpose (*i.e.*, providing life insurance and annuity
23 products throughout the United States). These elements are apparent in Defendants'
24 filings with the Securities and Exchange Commission and publications.

25 171. Plaintiffs are informed and believe, and upon such information and
26 belief allege, that, at all relevant times herein, Defendants each have had a distinct
27 role in the Enterprise.

28

1 172. Plaintiffs are informed and believe, and upon such information and
2 belief allege, that, at all relevant times herein, PNX's role in the Enterprise has
3 included strategic planning and policy making for the Enterprise and management of
4 the Enterprise.

5 173. Among other things, Plaintiffs are informed and believe, and upon such
6 information and belief allege, that PNX determines which life insurance and annuity
7 products are to be sold by the Enterprise and the Enterprise's strategies and policies
8 for marketing, underwriting and claims handling. By way of example, at page 3 of
9 PHL's Form 10-K for the period ending December 31, 2011, PHL described PNX's
10 role in determining the Enterprise's business lines as follows:

11 Since 2009, our ultimate parent company, The Phoenix
12 Companies, Inc. ("PNX"), has focused on selling products
13 and services that are less capital intensive and less
14 sensitive to its ratings. In 2011, PNX product sales were
15 primarily in annuities and 94% of those sales were fixed
16 indexed annuities. In addition, PNX expanded sales of
17 other insurance companies' policies through its
18 distribution subsidiary, Saybrus Partners, Inc. ("Saybrus").

19 174. At pages 30 - 32 of PHL's Form 10-K for the period ending December
20 31, 2011, PHL described PNX's "Enterprise Risk Management" for the Enterprise:

21 **Enterprise Risk Management**

22 Our ultimate parent company, PNX, has a comprehensive,
23 enterprise-wide risk management program under which
24 PHL Variable operations are covered. The Chief Risk
25 Officer reports to the Chief Financial Officer and monitors
26 our risk management activities. During 2009, as part of
27 our strategic repositioning and overall expense reduction
28 effort, we refined our approach to risk management across

1 the enterprise. We have an Enterprise Risk Management
2 Committee, chaired by our ultimate parent company's
3 Chief Executive Officer, whose functions are to establish
4 risk management principles, monitor key risks and oversee
5 our risk-management practices. Several management
6 committees oversee and address issues pertaining to all
7 our major risks—operational, market and product—as well
8 as capital management.

9 175. Plaintiffs are informed and believe, and upon such information and
10 belief allege, that, at all relevant times herein, PNX also has provided underwriting
11 for the Enterprise's life insurance and annuity products through other PNX
12 subsidiaries. This arrangement is described at page F-37 of PHL's Form 10-K for
13 the period ending December 31, 2011:

14 Effective September 20, 2010, 1851 Securities, Inc., a
15 wholly-owned subsidiary of PM Holdings, Inc., became
16 the principal underwriter of the Company's variable life
17 insurance policies and variable annuity contracts. . . .
18 Prior to September 20, 2010, Phoenix Equity Planning
19 Corporation ("PEPCO"), an indirect wholly-owned
20 subsidiary of PNX, was the principal underwriter.

21 Plaintiffs are informed and believe, and upon such information and belief allege,
22 that at all relevant times herein, PM Holdings, Inc. is a holding company that is the
23 sole shareholder of PHL and, in turn, is a wholly owned subsidiary of Phoenix Life.
24 Thus, Plaintiffs are informed and believe, and upon such information and belief
25 allege, that at all relevant times herein, the underwriter for the Enterprise, 1851
26 Securities, is a sister company of PHL and an indirect wholly owned subsidiary of
27 Phoenix Life which, in turn, is a wholly owned subsidiary of PNX.

28

1 176. Plaintiffs are informed and believe, and upon such information and
2 belief allege, that, at all relevant times herein, Phoenix Life's role in the Enterprise
3 has included paying commissions for the Enterprise's life insurance and annuity
4 products, providing key business services for the Enterprise, and selling life
5 insurance products for the Enterprise.

6 177. By way of example, as described above, at page F-37 of PHL's Form
7 10-K for the period ending December 31, 2011, PHL states that:

8 Phoenix Life reimburses 1851 [Securities, Inc., a wholly-
9 owned subsidiary of PM Holdings, Inc.] for commissions
10 incurred on our behalf and we in turn reimburse Phoenix
11 Life through a cost allocation process. Commissions
12 incurred were \$6,920 thousand and 15,736 thousand for
13 the years ended December 31, 2011 and 2010,
14 respectively. There were no amounts payable to Phoenix
15 Life related to commissions as of December 31, 2011 and
16 2010, respectively. . . . Phoenix Life reimbursed PEPCO
17 for commissions incurred on our behalf and we in turn
18 reimbursed Phoenix Life through a cost allocation process.
19 Commissions incurred were \$0, \$9,029 thousand and
20 \$16,271 thousand for the years ended December 31, 2011,
21 2010 and 2009, respectively.

22 178. Also by way of example, PHL's 2011 Annual Report to Insurance
23 Departments states that:

24 The Company [PHL] has entered into service agreements
25 with its affiliates, including the Parent Company, Phoenix
26 Life Insurance Company, related to cost reimbursement
27 for services. The agreement covers a variety of services
28 including, but not limited to, management fees for

1 business services, information technology services, office
2 space, investment advisory services, commission paying
3 services, and administrative services.

4 179. Plaintiffs are informed and believe, and upon such information and
5 belief allege, that, at all relevant times herein, PHL's role in the Enterprise has
6 included premium processing services for the Enterprise's life insurance and annuity
7 products and selling life insurance products for the Enterprise.

8 180. For example, at pages F-37 and F-38 of PHL's Form 10-K for the
9 period ending December 31, 2011, PHL states that:

10 We provide payment processing services for Phoenix Life,
11 wherein we receive deposits on Phoenix Life annuity
12 contracts and forward those payments to Phoenix Life.
13 During 2006, we began including life insurance premiums
14 in this service. In connection with this service, we had
15 amounts due to Phoenix Life of \$4,226 thousand and
16 \$2,793 thousand as of December 31, 2011 and 2010,
17 respectively. We do not charge any fees for this service.

18 We also provide payment processing services for Phoenix
19 Life and Annuity Company ("Phoenix Life and Annuity"),
20 a wholly-owned indirect subsidiary of Phoenix Life,
21 wherein we receive deposits on certain Phoenix Life and
22 Annuity annuity contracts and forward those payments to
23 Phoenix Life and Annuity. During 2006, we began
24 including life insurance premiums in this service. In
25 connection with this service, we had amounts due from
26 Phoenix Life and Annuity of \$29 thousand as of December
27 31, 2011 and amounts due to Phoenix Life and Annuity of
28 \$47 thousand as of December 31, 2010.

1 We do not charge any fees for this service.

2 181. Plaintiffs are informed and believe, and upon such information and
3 belief allege, that, at all relevant times herein, Defendants, and each of them, have
4 operated, managed, conducted and participated in the conduct of the affairs of the
5 Enterprise through common officers and directors at headquarters with a common
6 address, One American Row, Hartford, Connecticut.

7 182. By way of example, at page 47 of PHL's Form 10-K for the period
8 ending December 31, 2011, PHL identifies James D. Wehr as President (Principal
9 Executive Officer), Peter A. Hofmann as Senior Executive Vice President and Chief
10 Financial Officer (Principal Financial Officer) and Michael E. Hanrahan as Vice
11 President and Chief Accounting Officer (Principal Accounting Officer). Plaintiffs
12 are informed and believe, and upon such information and belief allege, that Mr.
13 Wehr is a member of the PNX Board of Directors, has been PNX's President and
14 Chief Executive Officer since in or about April 2009 and also has served as the
15 Senior Vice President and Chief Investment Officer for Phoenix Life since
16 approximately January 2004. Plaintiffs are further informed and believe, and upon
17 such information and belief allege, that Mr. Hofmann has been the Chief Financial
18 Officer and Senior Executive Vice President for PNX since approximately
19 November 2007 and also serves as the Chief Financial Officer and Senior Executive
20 Vice President of Phoenix Life.

21 183. At page 47 of PHL's Form 10-K for the period ending December 31,
22 2011, PHL identifies Edward W. Cassidy, Christopher M. Wilkos and Philip K.
23 Polkinghorn as Directors. According to PNX's April 3, 2012 Proxy Statement, Mr.
24 Wilkos is the PNX Executive Vice President and Chief Investment Officer and Mr.
25 Polkinghorn is the Senior Executive Vice President, Business Development for
26 PNX. Plaintiffs are informed and believe, and upon such information and belief
27 allege, that Mr. Cassidy has been the Executive Vice President, Distribution, for
28 PNX since in or about May 2007.

1 184. PNX's April 3, 2012 Proxy Statement also identifies Sanford Cloud,
2 Jr., Gordon J. Davis, Esq., Augustus K. Oliver, II, Martin N. Bailey, John H.
3 Forsgren and Thomas S. Johnson as members of the Board of Directors of both
4 PNX and Phoenix Life. Indeed, at page 11 of the Proxy Statement, PNX states that
5 "Each director of the Company [PNX] also serves, without additional compensation,
6 as a member of the board of directors of the Company's subsidiary, Phoenix Life."

7 185. The April 3, 2012 PNX Proxy Statement identifies John H. Forsgren,
8 Martin N. Baily, Gordon J. Davis, Esq. and Augustus K. Oliver, II as members of
9 the PNX Finance Committee whose responsibilities include "[e]xercising the
10 authority of the Board with respect to our financial and investment policies,"
11 "[e]xercising general supervision over the disposition of our subsidiaries and of
12 material assets," and "[r]eviewing policies and positions, and those of our major
13 subsidiaries, regarding interest rate risk, liquidity, management, counterparty risk,
14 derivative usage and foreign exchange risk."

15 186. At all relevant times herein, each Defendant was and is a "person"
16 within the meaning of 18 U.S.C. § 1961 (3) because each Defendant was and is an
17 entity capable of holding a legal or beneficial interest in property.

18 187. At all relevant times herein, the Enterprise was and is an "enterprise"
19 within the meaning of 18 U.S.C. § 1961 (4).

20 188. At all relevant times herein, each Defendant was and is a person
21 employed by or associated with the Enterprise within the meaning of 18 U.S.C.
22 § 1962 (c).

23 189. At all relevant times herein, Defendants and the Enterprise have been
24 involved in interstate commerce and their activities, as well as the predicate acts of
25 racketeering activity described below, have affected interstate commerce. Plaintiffs
26 are informed and believe, and upon such information and belief allege, that, at all
27 relevant times herein, the Enterprise has provided life insurance and annuity
28 products to individuals throughout the United States. PNX transacts business in all

1 50 states. PHL has been licensed to transact and has transacted insurance business
2 in every state except New York and Maine. Phoenix Life has been licensed to
3 transact and has transacted insurance business in all 50 states. The predicate acts of
4 racketeering activity described below involved the interstate use of the United States
5 Postal Service and commercial interstate carriers and the use of interstate wire
6 communications in violation of 18 U.S.C. § 1341 (mail fraud) and 18 U.S.C. § 1343
7 (wire fraud).

8 190. Plaintiffs are informed and believe, and upon such information and
9 belief allege, that, within the past ten years, Defendants, and each of them, have
10 conducted and/or participated, directly or indirectly, in the conduct of the
11 Enterprise's affairs through a pattern of racketeering activity within the meaning of
12 18 U.S.C. § 1961 (5).

13 191. As discussed above, Defendants have secretly decided and agreed not
14 to willingly pay claims for death benefits when the insureds ultimately die if the life
15 insurance policy is owned by an insurance trust and there has been a transfer of the
16 policy or the beneficial interest in a trust owning the policy. Defendants'
17 undisclosed plan is to lull Plaintiffs and other policyholders into a false sense of
18 security, and induce Plaintiffs and other policyholders to continue to pay premiums,
19 so that Defendants will maximize the amount of premiums billed and collected prior
20 to the death of the insureds and before PHL or Phoenix Life (depending upon which
21 company issued the policy) deny death benefits and seek to retain the premiums by
22 asserting that the policy was a IOLI policy that purportedly is void *ab initio*.

23 192. In perpetrating their fraudulent scheme, Defendants have conducted
24 and/or participated, directly or indirectly, in the conduct of the Enterprise's affairs to
25 make material misrepresentations to Plaintiffs, and fail to disclose material facts to
26 Plaintiffs, through the use of the United States Postal Service and commercial
27 interstate carriers and the use of interstate wire communications in violation of 18
28 U.S.C. § 1341 and 18 U.S.C. § 1343.

1 193. Among other things, for each of the Policies at issue, after Defendants
2 decided that death benefits would not be paid, PHL continued to use the United
3 States Postal Service to mail Plaintiffs premium notices, charging premiums to the
4 Plaintiff policyholders, without disclosing to Plaintiffs that PHL did not intend to
5 pay death benefits willingly and was trying to maximize the amount of premiums it
6 collected from Plaintiffs and ultimately would assert could be retained.

7 194. Premiums are only due under policies which are valid and enforceable.
8 If a policy is invalid or unenforceable, no premiums are due. If an insurer knows or
9 believes that a policy is invalid or unenforceable, or intends not to honor a policy on
10 such a basis, the insurer has an obligation to inform the policyholder of that fact and,
11 more importantly, to cease charging premiums for the policy in question. PHL has
12 determined that it will not honor the Policies, yet has continued to bill Plaintiffs by
13 mail for the substantial premiums due under the Policies. Each time PHL mails a
14 premium notice to Plaintiffs, PHL is affirmatively representing to the Plaintiff
15 receiving the premium notice that, to PHL's knowledge, the Policy in question is
16 valid and enforceable and that it has no plan to challenge the Policy or deny benefits
17 under the Policy. These affirmative representations give rise to a duty to disclose all
18 material facts necessary to make full and complete disclosure. Each time that PHL
19 has used the United States Postal Service to bill Plaintiffs for premiums, PHL has
20 fraudulently concealed that it does not view the Policy as valid and enforceable and
21 its true intentions with respect to the Policy, which is to deny the claim for benefits
22 under the Policy, to attempt to rescind it, and to attempt to confiscate all premiums
23 (including the ones being billed in the fraudulent premium notice).

24 195. PHL also used the United States Postal Service to mail Plaintiffs
25 Annual Policy Summaries representing to Plaintiffs the current amount of the death
26 benefits and policy values that PHL would pay to Plaintiffs. The Annual Policy
27 Summaries thanked Plaintiffs for choosing PHL to meet their insurance and
28 investment needs and promised Plaintiffs that PHL remained committed to

1 providing Plaintiffs with “the highest level of service now, and in the future.” PHL
2 mailed Plaintiffs these Annual Policy Summaries containing these representations
3 even though Defendants already had decided that they would not pay death benefit
4 claims willingly and also would attempt to retain the premiums that had been, and
5 would continue to be, paid by Plaintiffs. Defendants caused these Annual Policy
6 Summaries to be mailed to Plaintiffs without disclosing to Plaintiffs that they did
7 not intend to pay death benefits willingly and were trying to maximize the amount
8 of premiums PHL collected from Plaintiffs and ultimately would assert could be
9 retained.

10 196. The Annual Policy Summaries each affirmatively misrepresented and
11 fraudulently concealed facts from Plaintiffs. When PHL represented to Plaintiffs the
12 amount of the current death benefit and policy value, PHL knew and intended that
13 Plaintiffs would believe that PHL intended to honor the Policy and pay the amounts
14 stated and that the Plaintiffs would be induced to continue to pay premiums based
15 on those representations and assurances. These Annual Policy Summaries mailed to
16 Plaintiffs each falsely represented that PHL considered the Policy in question valid
17 and enforceable and that PHL had no plan to challenge the Policy or deny benefits
18 under the Policy. In mailing this information to Plaintiffs, PHL fraudulently
19 concealed that it had no intention of paying the amounts stated, but instead intended
20 to deny any claim for benefits and to confiscate all premiums paid.

21 197. In response to Plaintiffs’ requests, Defendants caused PHL to send
22 Plaintiffs policy illustrations, either by mail through the United States Postal Service
23 or by interstate facsimile through the use of interstate wires. These policy
24 illustrations included representations to Plaintiffs regarding the death benefits and
25 policy values that PHL purportedly would pay as of the date of the illustration and
26 projections of the policy values based on additional premium outlays by Plaintiffs.
27 Here, too, PHL mailed and faxed Plaintiffs the policy illustrations containing these
28 representations even though Defendants already had decided that they would not

1 pay death benefit claims willingly and also would attempt to retain the premiums
2 that had been, and would continue to be, paid by Plaintiffs. Defendants caused these
3 policy illustrations to be mailed and faxed to Plaintiffs without disclosing to
4 Plaintiffs that Defendants did not intend to pay death benefits willingly and were
5 trying to maximize the amount of premiums PHL collected from Plaintiffs and
6 ultimately would assert could be retained.

7 198. The policy illustrations that Defendants caused to be mailed and faxed
8 to Plaintiffs each affirmatively misrepresented and fraudulently concealed facts
9 from Plaintiffs. When PHL represented to a policyholder the amounts of the
10 policyholder's current death benefit and policy value, PHL knew and intended that
11 the policyholder would believe that PHL intended to honor the policy and pay the
12 amounts stated and, in reasonable and justifiable reliance on PHL's representations
13 and assurances, the policyholder would continue to pay premiums. The policy
14 illustrations faxed and mailed to Plaintiffs by PHL each falsely represented that PHL
15 considered the Policy in question valid and enforceable and that PHL had no plan to
16 challenge the Policy or deny benefits under the Policy. In providing this
17 information to Plaintiffs by fax and by mail, PHL fraudulently concealed that it has
18 no intention of paying the amounts stated, but instead intended to deny any claim for
19 benefits and to confiscate all premiums paid.

20 199. PHL also has used the interstate wires to fax to the Plaintiff
21 policyholders and/or used the United States Postal Service to mail to the Plaintiff
22 Policyholders documents entitled Verification of Coverage for Life Insurance Policy
23 ("VOC"). As the name of the documents suggests, these documents verify to the
24 policyholder that it has coverage from PHL and other details about the coverage.
25 Each VOC asks "Is the above referenced policy in force?" In response to this
26 question, PHL answered and represented "YES." The VOCs also contain
27 confirmation of the current death benefit and current policy value for the respective
28 Policy. PHL faxed and mailed these VOCs to Plaintiffs despite having no intention

1 of ultimately honoring the Policies. PHL faxed and mailed Plaintiffs the VOCs in
2 furtherance of Defendants' plan to defraud Plaintiffs into paying premiums for
3 Policies PHL intends to challenge and to earn additional premium revenue for PHL
4 which it does not intend to return.

5 200. The VOCs that were faxed and mailed to Plaintiffs each affirmatively
6 misrepresented and fraudulently concealed facts from Plaintiffs. When PHL
7 represented "YES" in response to the question of whether the Policies were "in
8 force," PHL knew and intended that the policyholder would believe that PHL
9 intended to honor the policy and pay the amounts stated and, in reasonable and
10 justifiable reliance on PHL's representations and assurances, the policyholder would
11 continue to pay premiums. Further, when PHL represented to a policyholder the
12 amounts of the policyholder's current death benefit and policy value, PHL knew and
13 intended that the policyholder would believe that PHL intended to honor the policy
14 and pay the amounts stated and, in reasonable and justifiable reliance on PHL's
15 representations and assurances, the policyholder would continue to pay premiums.
16 The VOCs faxed and mailed to Plaintiffs by PHL each falsely represented that PHL
17 considered the Policy in question "in force," valid and enforceable and that PHL had
18 no plan to challenge the Policy or deny benefits under the Policy. In providing this
19 information to Plaintiffs by fax and by mail, PHL fraudulently concealed that it has
20 no intention of paying the amounts stated, but instead intended to deny any claim for
21 benefits and to confiscate all premiums paid.

22 201. Plaintiffs are informed and believe, and upon such information and
23 belief allege, that, within the past ten years, Defendants, and each of them,
24 conducted and/or participated, directly or indirectly, in the conduct of the
25 Enterprise's affairs through a pattern of racketeering activity. The following are
26 representative examples of communications faxed and mailed to Plaintiffs by PHL
27 as part of Defendants' plan to fraudulently induce Plaintiffs and other policyholders
28 to continue to pay premiums on the policies that Defendants secretly intend to have

1 PHL not honor when death benefits become due. Each of the below
2 communications that Defendants caused PHL to fax or mail to Plaintiffs both
3 affirmatively misrepresented and fraudulently concealed facts from Plaintiffs as
4 described above and, on information and belief, was faxed or mailed with the
5 specific intent to deceive or defraud and with the knowledge that Plaintiffs would be
6 deceived and defrauded:

7 A. PHL sent fraudulent communications to the John Doe Trust 1,
8 through its trustee, including but not limited to, communications dated as
9 follows: premium notices of December 6, 2009, December 6, 2010, and
10 December 6, 2011; annual policy summaries of December 29, 2009,
11 December 28, 2010, and December 27, 2011; policy illustrations of February
12 9, 2009, November 16, 2009, December 28, 2009, January 10, 2011, and
13 February 8, 2012; and September 21, 2011.

14 B. PHL sent fraudulent communications to the Jane Doe Trust 2,
15 through its trustee, including but not limited to, communications dated as
16 follows: premium notices of February 10, 2009, February 10, 2010 and
17 February 10, 2011; annual policy summaries of March 3, 2009, March 2,
18 2010 and March 1, 2011; policy illustrations of November 18, 2009, March 3,
19 2010 and March 14, 2011.

20 C. PHL sent fraudulent communications to the John Doe Trust 3,
21 through its trustee, including but not limited to, communications dated as
22 follows: premium notice of May 22, 2010; annual policy summaries of June
23 11, 2009 and June 11, 2010; policy illustrations of November 16, 2009, June
24 17, 2010, June 16, 2011, and January 19, 2012; and VOC of June 13, 2011.

25 D. PHL sent fraudulent communications to the Jane Doe Trust 4,
26 through its trustee, including but not limited to, communications dated as
27 follows: premium notices of April 6, 2010, April 6, 2011 and April 6, 2012;
28 annual policy summaries of April 28, 2009, April 27, 2010, April 26, 2011,

1 and April 26, 2012; policy illustrations of November 16, 2009, April 30,
2 2010, May 4, 2011, January 17, 2012, and May 9, 2012; and VOC of
3 September 15, 2011.

4 E. PHL sent fraudulent communications to the John Doe Trust 5,
5 through its trustee, including but not limited to, communications dated as
6 follows: premium notices of December 19, 2009, December 19, 2010, and
7 December 19, 2011; annual policy summaries of January 8, 2009, January 9,
8 2010, January 11, 2011, and January 10, 2012; policy illustrations of
9 November 23, 2009, January 20, 2010, January 18, 2011, November 23,
10 2011, and February 19, 2012; and VOC of September 21, 2011.

11 F. PHL sent fraudulent communications to the John Doe Trust 6,
12 through its trustee, including but not limited to, communications dated as
13 follows: premium notices of February 18, 2010, February 18, 2011, and
14 February 18, 2012; annual policy summaries of November 24, 2009, April 9,
15 2010, April 9, 2011, and March 9, 2012; policy illustrations of November 23,
16 2009, March 16, 2010, March 14, 2011, and April 9, 2012; and VOC of
17 September 21, 2011.

18 G. PHL sent fraudulent communications to the Jane Doe Trust 7,
19 through its trustee, including but not limited to, communications dated as
20 follows: premium notices of March 6, 2009, March 6, 2010, March 6, 2011,
21 and March 6, 2012; annual policy summaries of March 26, 2009, March 26,
22 2010, March 28, 2011, and March 26, 2012; policy illustrations of December
23 1, 2009, April 6, 2010, March 31, 2011, January 4, 2012, and March 27,
24 2012; and VOC of September 20, 2011.

25 H. PHL sent fraudulent communications to the John Doe Trust 8,
26 through its trustee, including but not limited to, communications dated as
27 follows: premium notices of March 7, 2009, March 7, 2010, March 7, 2011,
28 and March 7, 2012; annual policy summaries of March 27, 2009, March 30,

1 2010, March 28, 2011, and March 27, 2012; policy illustrations of December
2 8, 2009, April 5, 2010, March 31, 2011, and January 4, 2012; and VOC of
3 September 19, 2011.

4 I. PHL sent fraudulent communications to the John Doe Trust 9,
5 through its trustee, including but not limited to, communications dated as
6 follows: premium notices of July 31, 2009, July 31, 2010, and July 31, 2011;
7 annual policy summaries of August 26, 2009, August 21, 2010, and August
8 22, 2011; policy illustrations of August 26, 2009, September 10, 2010,
9 August 29, 2011, and January, 19, 2012; and VOC of June 13, 2011.

10 J. PHL sent fraudulent communications to the John Doe Trust 10,
11 through its trustee, including but not limited to, communications dated as
12 follows: premium notices of July 31, 2010 and July 31, 2011; annual policy
13 summaries of August 20, 2009, August 21, 2010, and August 22, 2011; policy
14 illustrations of September 20, 2010, August 15, 2011, and January 19, 2012;
15 and VOC of June 13, 2011.

16 K. PHL sent fraudulent communications to the John Doe Trust 11,
17 through its trustee, including but not limited to, communications dated as
18 follows: premium notices of January 10, 2010, January 10, 2011, and January
19 10, 2012; annual policy summaries of November 24, 2009, February 2, 2010,
20 February 1, 2011, and January 30, 2012; policy illustrations of February 23,
21 2009, February 2, 2010, February 17, 2011, November 10, 2011, and January
22 5, 2012; and VOC of September 22, 2011.

23 L. PHL sent fraudulent communications to the John Doe Trust 12,
24 through its trustee, including but not limited to, communications dated as
25 follows: premium notice of May 26, 2010; annual policy summaries of June
26 16, 2010 and June 16, 2011; policy illustrations of December 22, 2009, June
27 23, 2010, June 23, 2011, and February 19, 2012; and VOC of June 13, 2011.

28 M. PHL sent fraudulent communications to the John Doe Trust 13,

1 through its trustee, including but not limited to, communications dated as
2 follows: premium notices of March 8, 2009, March 8, 2010, March 8, 2011,
3 and March 8, 2012; annual policy summaries of March 31, 2009, March 30,
4 2010, March 28, 2011, and March 28, 2012; policy illustrations of December
5 22, 2009, April 5, 2010, March 31, 2011, January 4, 2012, and April 5, 2012;
6 and VOC of September 22, 2011.

7 N. PHL sent fraudulent communications to the John Doe Trust 14,
8 through its trustee, including but not limited to, communications dated as
9 follows: premium notices of March 8, 2009, March 8, 2010, March 8, 2011,
10 and March 8, 2012; annual policy summaries of March 31, 2009, March 30,
11 2010, March 28, 2011, and March 28, 2012; policy illustrations of December
12 8, 2009, April 5, 2010, March 31, 2011, and January 4, 2012; and VOC of
13 September 22, 2011.

14 O. PHL sent fraudulent communications to the John Doe Trust 15,
15 through its trustee, including but not limited to, communications dated as
16 follows: premium notices of April 13, 2010 and April 13, 2011; annual policy
17 summaries of May 4, 2010 and May 3, 2012; policy illustrations of December
18 14, 2009, May 4, 2010, May 19, 2011, and January 17, 2012; and VOC of
19 November 9, 2011.

20 P. PHL sent fraudulent communications to the John Doe Trust 16,
21 through its trustee, including but not limited to, communications dated as
22 follows: premium notices of March 22, 2010, March 22, 2011, and March 22,
23 2012; annual policy summaries of April 14, 2009, April 13, 2010, April 12,
24 2011, and April 11, 2012; policy illustrations of September 29, 2009, May 6,
25 2010, May 18, 2011, January 17, 2012, and May 8, 2012; and VOC of
26 September 22, 2011.

27 Q. PHL sent fraudulent communications to the John Doe Trust 17,
28 through its trustee, including but not limited to, communications dated as

1 follows: premium notices of March 22, 2010, March 22, 2011, and March 22,
2 2012; annual policy summaries of April 14, 2009, April 13, 2010, April 12,
3 2011, and April 11, 2012; policy illustrations of December 14, 2009, April 19,
4 2010, April 14, 2011, January 17, 2012 and May 8, 2012; and VOC of
5 September 22, 2011.

6 R. PHL sent fraudulent communications to the John Doe Trust 18,
7 through its trustee, including but not limited to, communications dated as
8 follows: premium notices of April 12, 2010, April 12, 2011, and April 12,
9 2012; annual policy summaries of December 11, 2009, May 4, 2010, August
10 1, 2011, and May 8, 2012; policy illustrations of December 10, 2009, May 4,
11 2010, January 7, 2012, and May 4, 2012; and VOCs of November 17, 2011
12 and December 5, 2011.

13 S. PHL sent fraudulent communications to the John Doe Trust 19,
14 through its trustee, including but not limited to, communications dated as
15 follows: premium notices of January 17, 2010, January 17, 2011, and January
16 17, 2012; annual policy summaries of February 6, 2009, February 9, 2010,
17 February 7, 2011, and February 6, 2012; policy illustrations of May 13, 2009,
18 November 30, 2009, February 12, 2010, February 9, 2011, January 4, 2012,
19 and February 8, 2012; and VOC of September 21, 2011.

20 T. PHL sent fraudulent communications to the John Doe Trust 20,
21 through its trustee, including but not limited to, communications dated as
22 follows: premium notices of March 1, 2009, March 1, 2010, March 1, 2011,
23 and March 1, 2012; annual policy summaries of March 24, 2009, April 14,
24 2010, March 22, 2011, and March 21, 2012; policy illustrations of December
25 14, 2009, March 23, 2010, April 27, 2011, January 4, 2012 and March 23,
26 2012; and VOC of September 20, 2011.

27 U. PHL sent fraudulent communications to the John Doe Trust 21,
28 through its trustee, including but not limited to, communications dated as

1 follows: premium notices of February 10, 2009, February 10, 2010, February
2 10, 2011, and February 10, 2012; annual policy summaries of March 3, 2009,
3 March 2, 2010, March 1, 2011, and March 1, 2012; policy illustrations of
4 November 30, 2009, March 17, 2010, March 14, 2011, January 4, 2012, and
5 March 8, 2012; and VOC of September 21, 2011.

6 V. PHL sent fraudulent communications to the Jane Doe Trust 22,
7 through its trustee, including but not limited to, communications dated as
8 follows: premium notices of March 22, 2010, March 22, 2011, and March 22,
9 2012; annual policy summaries of November 10, 2009, April 13, 2010, April
10 12, 2011, and April 11, 2012; policy illustrations of December 10, 2009, April
11 19, 2010, January 17, 2012 and April 13, 2012; and VOC of September 22,
12 2011.

13 W. PHL sent fraudulent communications to the John Doe Trust 23,
14 through its trustee, including but not limited to, communications dated as
15 follows: premium notices of February 23, 2009, February 23, 2010, February
16 23, 2011, and February 23, 2012; annual policy summaries of March 17,
17 2009, March 16, 2010, March 15, 2011, and March 16, 2012; policy
18 illustrations of December 10, 2009, March 16, 2010, March 18, 2011, January
19 14, 2012 and March 19, 2012; and VOC of September 21, 2011.

20 X. PHL sent fraudulent communications to the John Doe Trust 24,
21 through its trustee, including but not limited to, communications dated as
22 follows: premium notices of March 30, 2010, March 30, 2011, and March 30,
23 2012; annual policy summaries of April 20, 2009, April 20, 2010, April 20,
24 2011, and April 19, 2012; policy illustrations of December 10, 2009, April 20,
25 2010, April 27, 2011, and May 9, 2012; and VOC of September 22, 2011.

26 Y. PHL sent fraudulent communications to the John Doe Trust 25,
27 through its trustee, including but not limited to, communications dated as
28 follows: premium notices of April 12, 2009, April 12, 2010, April 12, 2011,

1 and April 12, 2012; annual policy summaries of May 5, 2009, May 4, 2010,
2 and May 8, 2012; policy illustrations of December 10, 2009, May 4, 2010,
3 January 17, 2012 and May 4, 2012; and VOC of November 9, 2011.

4 Z. PHL sent fraudulent communications to the John Doe Trust 26,
5 through its trustee, including but not limited to, communications dated as
6 follows: premium notices of March 1, 2010, March 1, 2011, and March 1,
7 2012; annual policy summaries of March 24, 2009, March 22, 2010, March
8 22, 2011, and March 21, 2012; policy illustrations of December 1, 2009,
9 March 23, 2010, March 23, 2010, January 4, 2012 and March 23, 2012; and
10 VOC of September 20, 2011.

11 AA. PHL sent fraudulent communications to the Jane Doe Trust 27,
12 through its trustee, including but not limited to, communications dated as
13 follows: premium notice of November 20, 2010; annual policy summaries of
14 December 10, 2009, December 11, 2009, and December 13, 2011; policy
15 illustrations of January 5, 2010, December 15, 2010, December 15, 2011 and
16 February 8, 2012; and VOC of September 15, 2011.

17 BB. PHL sent fraudulent communications to the John Doe Trust 28,
18 through its trustee, including but not limited to, communications dated as
19 follows: premium notice of May 31, 2011; annual policy summaries of June
20 23, 2009, September 28, 2010, and June 20, 2011; policy illustrations of
21 December 29, 2009, June 23, 2010, June 27, 2011, and January 19, 2012; and
22 VOC of June 13, 2011.

23 CC. PHL sent fraudulent communications to the John Doe Trust 29,
24 through its trustee, including but not limited to, communications dated as
25 follows: premium notices of July 16, 2010 and July 16, 2011; annual policy
26 summary of August 5, 2010 and August 5, 2011; policy illustrations of
27 December 15, 2009, September 1, 2010, August 15, 2011 and January 19,
28 2012; and VOC of June 13, 2011.

1 DD. PHL sent fraudulent communications to the John Doe Trust 30,
2 through its trustee, including but not limited to, communications dated as
3 follows: premium notices of January 16, 2011 and January 16, 2012; annual
4 policy summaries of February 5, 2010, February 7, 2011, and February 6,
5 2012; policy illustrations of March 2, 2010, February 16, 2011, January 4,
6 2012 and February 8, 2012; and VOC of September 15, 2011.

7 EE. PHL sent fraudulent communications to the John Doe Trust 31,
8 through its trustee, including but not limited to, communications dated as
9 follows: premium notice of June 5, 2010; annual policy summaries of June
10 26, 2010 and June 28, 2011; policy illustrations of December 14, 2009, June
11 28, 2010, July 12, 2011, and January 19, 2012; and VOC of June 13, 2011.

12 FF. PHL sent fraudulent communications to the John Doe Trust 32,
13 through its trustee, including but not limited to, communications dated as
14 follows: premium notices of November 21, 2010 and November 21, 2011;
15 annual policy summaries of December 11, 2009, December 14, 2010, and
16 December 13, 2011; policy illustrations of March 4, 2010, December 21,
17 2010, December 15, 2011, and February 8, 2012; and VOC of September 15,
18 2011.

19 GG. PHL sent fraudulent communications to the John Doe Trust 33,
20 through its trustee, including but not limited to, communications dated as
21 follows: premium notices of August 1, 2010 and August 1, 2011; annual
22 policy summaries of August 23, 2010 and August 22, 2011; policy
23 illustrations of December 15, 2009, August 24, 2010, August 29, 2011, and
24 January 19, 2012; and VOC of June 13, 2011.

25 HH. PHL sent fraudulent communications to the John Doe Trust 34,
26 through its trustee, including but not limited to, communications dated as
27 follows: premium notices of June 29, 2009 and June 29, 2010; annual policy
28 summaries of July 19, 2010 and July 19, 2011; policy illustrations of

1 December 15, 2009, July 22, 2010, July 20, 2011 and January 19, 2012; and
2 VOC of June 13, 2011.

3 II. PHL sent fraudulent communications to the John Doe Trust 35,
4 through its trustee, including but not limited to, communications dated as
5 follows: premium notices of July 21, 2009, July 21, 2010, and July 21, 2011;
6 annual policy summaries of August 11, 2009 and August 10, 2010; policy
7 illustrations of December 15, 2009, September 10, 2010, August 11, 2011,
8 August 15, 2011 and January 19, 2012; and VOC of June 13, 2011.

9 JJ. PHL sent fraudulent communications to the John Doe Trust 36,
10 through its trustee, including but not limited to, communications dated as
11 follows: premium notices of January 5, 2011 and January 5, 2012; annual
12 policy summaries of January 26, 2010, January 25, 2011, and January 25,
13 2012; policy illustrations of March 2, 2010, February 9, 2011, November 29,
14 2011, and January 31, 2012; and VOC of September 15, 2011.

15 KK. PHL sent fraudulent communications to the Jane Doe Trust 37,
16 through its trustee, including but not limited to, communications dated as
17 follows: premium notices of September 5, 2009, September 5, 2010, and
18 September 5, 2011; annual policy summaries of September 26, 2009,
19 September 28, 2010, and September 30, 2011; policy illustrations of
20 December 22, 2009, March 30, 2010, August 29, 2011, September 29, 2011,
21 and January 24, 2012; and VOC of July 12, 2011.

22 LL. PHL sent fraudulent communications to the John Doe Trust 38,
23 through its trustee, including but not limited to, communications dated as
24 follows: premium notice of August 17, 2011; annual policy summaries of
25 September 8, 2010 and September 7, 2011; policy illustrations of December
26 22, 2009, October 5, 2010, August 9, 2011, August 22, 2011, September 12,
27 2011, and January 24, 2012; and VOCs of June 13, 2011 and July 14, 2011.

28 MM. PHL sent fraudulent communications to the John Doe Trust 39,

1 through its trustee, including but not limited to, communications dated as
2 follows: premium notices of November 15, 2010 and November 15, 2011;
3 annual policy summaries of December 8, 2009, December 7, 2010, and
4 December 5, 2011; policy illustrations of December 22, 2009, December 5,
5 2011, and February 8, 2012; and VOC of September 15, 2011.

6 NN. PHL sent fraudulent communications to the Jane Doe Trust 40,
7 through its trustee, including but not limited to, communications dated as
8 follows: premium notices of April 26, 2011 and April 26, 2012; annual policy
9 summary of June 3, 2010; policy illustrations of June 3, 2010, May 20, 2011,
10 and January 17, 2012; and VOC of June 13, 2011.

11 OO. PHL sent fraudulent communications to the John Doe Trust 41,
12 through its trustee, including but not limited to, communications dated as
13 follows: premium notice of October 6, 2010; annual policy summaries of
14 October 27, 2009, October 26, 2010, and October 26, 2011; policy
15 illustrations of January 5, 2010, November 3, 2010, November 1, 2011, and
16 January 24, 2012; and VOC of July 12, 2011.

17 PP. PHL sent fraudulent communications to the Jane Doe Trust 42,
18 through its trustee, including but not limited to, communications dated as
19 follows: premium notices of April 19, 2010, April 19, 2011 and April 19,
20 2012; annual policy summaries of May 11, 2010 and May 9, 2012; policy
21 illustrations of December 14, 2009, May 11, 2010, May 19, 2011, January 17,
22 2011, and May 16, 2012.

23 QQ. PHL sent fraudulent communications to the Jane Doe Trust 43,
24 through its trustee, including but not limited to, communications dated as
25 follows: premium notices of September 30, 2009, September 30, 2010, and
26 September 30, 2011; annual policy summaries of October 20, 2009, October
27 20, 2010, and October 20, 2011; policy illustrations of January 2, 2010,
28 November 3, 2010, November 16, 2011, December 19, 2011, and March 1,

1 2012; and VOC of July 12, 2011.

2 RR. PHL sent fraudulent communications to the John Doe Trust 44,
3 through its trustee, including but not limited to, communications dated as
4 follows: premium notices of October 20, 2010 and October 20, 2011; annual
5 policy summaries of November 10, 2009, November 9, 2010, and November
6 9, 2011; policy illustrations of January 5, 2010, November 16, 2010,
7 November 17, 2011, and February 6, 2012; and VOC of July 12, 2011.

8 SS. PHL sent fraudulent communications to the John Doe Trust 45,
9 through its trustee, including but not limited to, communications dated as
10 follows: premium notices of November 7, 2010 and November 7, 2011;
11 annual policy summaries of November 27, 2009, November 30, 2010, and
12 December 2, 2011; policy illustrations of December 15, 2009, December 1,
13 2010, November 30, 2011, and February 8, 2012; and VOC of July 12, 2011.

14 TT. PHL sent fraudulent communications to the John Doe Trust 46,
15 through its trustee, including but not limited to, communications dated as
16 follows: premium notices of January 9, 2011 and January 9, 2012; annual
17 policy summaries of January 29, 2010, February 1, 2011, and February 1,
18 2012; policy illustrations of March 2, 2010, February 1, 2011, November 29,
19 2011, and February 1, 2012; and VOC of September 15, 2011.

20 UU. PHL sent fraudulent communications to the Jane Doe Trust 47,
21 through its trustee, including but not limited to, communications dated as
22 follows: premium notices of January 4, 2009 and January 4, 2012; annual
23 policy summaries of January 26, 2010, January 27, 2011, and January 24,
24 2012; policy illustrations of March 2, 2010, January 27, 2011, November 29,
25 2011, January 25, 2012, and January 31, 2012; and VOC of September 15,
26 2011.

27 VV. PHL sent fraudulent communications to the John Doe Trust 48,
28 through its trustee, including but not limited to, communications dated as

1 follows: premium notices of November 20, 2010 and November 20, 2011;
2 annual policy summaries of December 10, 2009, December 11, 2010, and
3 December 13, 2011; policy illustrations of January 5, 2010, December 15,
4 2010, December 15, 2011, and February 8, 2012; and VOC of September 15,
5 2011.

6 WW. PHL sent fraudulent communications to the John Doe Trust 49,
7 through its trustee, including but not limited to, communications dated as
8 follows: premium notices of August 24, 2010 and August 24, 2011; annual
9 policy summaries of September 15, 2009, September 14, 2010, and
10 September 13, 2011; policy illustrations of December 17, 2009, September
11 20, 2010, August 22, 2011, September 21, 2011, and January 24, 2012; and
12 VOC of July 14, 2011.

13 XX. PHL sent fraudulent communications to the John Doe Trust 50,
14 through its trustee, including but not limited to, communications dated as
15 follows: premium notices of August 24, 2010 and August 24, 2011; annual
16 policy summaries of September 15, 2009, September 14, 2010, and
17 September 13, 2011; policy illustrations of December 17, 2009, September
18 20, 2010, August 22, 2011, September 21, 2011, and January 24, 2012; and
19 VOC of July 14, 2011.

20 YY. PHL sent fraudulent communications to the John Doe Trust 51,
21 through its trustee, including but not limited to, communications dated as
22 follows: premium notices of July 23, 2009, July 23, 2010, and July 23, 2011;
23 annual policy summaries of August 12, 2009, August 12, 2010, and August
24 17, 2011; policy illustrations of November 16, 2009, September 10, 2010,
25 August 8, 2011, August 15, 2011, August 29, 2011, and January 19, 2012;
26 and VOC of June 13, 2011.

27 ZZ. PHL sent fraudulent communications to the John Doe Trust 52,
28 through its trustee, including but not limited to, communications dated as

1 follows: premium notices of December 3, 2010 and December 3, 2011;
2 annual policy summaries of January 13, 2010, December 23, 2010, and
3 December 23, 2011; policy illustrations of January 13, 2010, January 6, 2011,
4 and February 8, 2012; and VOC of September 15, 2011.

5 AAA. PHL sent fraudulent communications to the John Doe Trust 53,
6 through its trustee, including but not limited to, communications dated as
7 follows: premium notices of December 3, 2010 and December 3, 2011;
8 annual policy summaries of January 13, 2010, December 23, 2010, and
9 December 23, 2011; policy illustrations of January 13, 2010, December 29,
10 2010, and February 8, 2012; and VOC of September 15, 2011.

11 BBB. PHL sent fraudulent communications to the John Doe Trust 54,
12 through its trustee, including but not limited to, communications dated as
13 follows: premium notices of August 24, 2010 and August 24, 2011; annual
14 policy summaries of September 15, 2009, September 15, 2010, and
15 September 13, 2011; policy illustrations of December 22, 2009, September
16 20, 2010, August 22, 2011, September 21, 2011, January 24, 2011, and March
17 1, 2011; and VOC of July 14, 2011.

18 CCC. PHL sent fraudulent communications to the John Doe Trust 55,
19 through its trustee, including but not limited to, communications dated as
20 follows: premium notice of August 24, 2010 and August 24, 2011; annual
21 policy summaries of September 15, 2009, September 14, 2010, and
22 September 13, 2011; policy illustrations of December 22, 2009, September
23 20, 2010, August 22, 2011, September 21, 2011, and January 24, 2012; and
24 VOC of July 12, 2011.

25 DDD. PHL sent fraudulent communications to the John Doe Trust 56,
26 through its trustee, including but not limited to, communications dated as
27 follows: premium notices of March 19, 2009, March 19, 2010, March 19,
28 2011, and March 19, 2012; annual policy summaries of April 8, 2009, April

1 8, 2010, April 8, 2011, and April 9, 2012; policy illustrations of June 9, 2009,
2 December 10, 2009, April 19, 2010, and January 17, 2012; and VOC of
3 September 21, 2011.

4 EEE. PHL sent fraudulent communications to the John Doe Trust 57,
5 through its trustee, including but not limited to, communications dated as
6 follows: premium notices of August 4, 2010 and August 4, 2011; annual
7 policy summaries of August 24, 2010 and August 24, 2011; policy
8 illustrations of December 17, 2009, August 27, 2010, August 29, 2011, and
9 January 19, 2012; and VOC of June 13, 2011.

10 FFF. PHL sent fraudulent communications to the John Doe Trust 58,
11 through its trustee, including but not limited to, communications dated as
12 follows: premium notices of September 21, 2009, September 21, 2010, and
13 September 21, 2011; annual policy summaries of October 13, 2009, October
14 12, 2010, and October 11, 2011; policy illustrations of January 5, 2010,
15 October 12, 2010, October 31, 2011, and January 24, 2012; and VOC of July
16 12, 2011.

17 GGG. PHL sent fraudulent communications to the John Doe Trust 59,
18 through its trustee, including but not limited to, communications dated as
19 follows: premium notices of July 14, 2009, July 14, 2010, and July 14, 2011;
20 annual policy summaries of October 13, 2009, August 3, 2010, and August 3,
21 2011; policy illustrations of October 13, 2009, August 12, 2010, August 8,
22 2011, August 15, 2011, and January 19, 2012; and VOC of June 13, 2011.

23 HHH. PHL sent fraudulent communications to the John Doe Trust 60,
24 through its trustee, including but not limited to, communications dated as
25 follows: premium notices of August 2, 2010 and August 2, 2011; annual
26 policy summaries of August 23, 2010 and August 22, 2011; policy
27 illustrations of December 17, 2009, August 24, 2010, August 8, 2011, August
28 15, 2011, August 29, 2011, and January 19, 2012; and VOC of June 13, 2011.

1 202. In October, 2011, PHL, as part of Defendants' scheme, used the
2 interstate wires and/or used the United States Postal Service to mail all Plaintiffs
3 except for John Doe Trust 32, John Doe Trust 36, John Doe Trust 38, John Doe
4 Trust 41, John Doe Trust 46, John Doe Trust 54, and John Doe Trust 55 a letter
5 regarding a second COI rate increase. Each letter informs the Plaintiff to whom it is
6 wired or mailed that "the rates used to determine your cost of insurance will be
7 increased from the current rates. This change will go into effect on your next policy
8 anniversary on or after November 1, 2011." Each letter also states that "This change
9 is in accordance with the terms of your policy" and refers to "the maximum
10 guaranteed rate contained in your policy contract. Defendants' goals in sending
11 these letters were two-fold: (1) shock many policyholders into lapsing their policies
12 due to the increases and (2) increase the premiums Defendants would later attempt
13 to confiscate from policyholders who, relying on PHL's representations, paid the
14 increased premiums.

15 203. The October 2011 COI rate increase letters affirmatively
16 misrepresented and fraudulently concealed facts from Plaintiffs. When PHL
17 represented that the COI rates would increase "on your next policy anniversary on
18 or after November 1, 2011," PHL knew and intended that each Plaintiff would
19 believe that PHL intended to honor the Policy and pay the amounts stated and that
20 each Plaintiff would be induced to continue to pay premiums based on those
21 representations and assurances. Further, when PHL represented that the COI rate
22 change was "in accordance with the terms of your policy" and referred to "the
23 maximum guaranteed rate contained in your policy contract," PHL knew and
24 intended that each Plaintiff would believe that PHL intended to honor the policy and
25 pay the amounts stated and, in reasonable and justifiable reliance on PHL's
26 representations and assurances, would continue to pay premiums. In providing this
27 information to Plaintiffs by fax or mail, PHL fraudulently concealed that it had no
28 intention of paying the death benefits for the Policies, but instead intended to deny

1 any claim for benefits and to confiscate all premiums paid.

2 204. PHL (specifically, Phoenix Life representatives acting on behalf of
3 PHL), also, as part of Defendants' scheme, recently used the interstate wires and/or
4 used the United States Postal Service to mail all Plaintiffs documents regarding each
5 of the Policies, entitled "Policy Audit Request for Life Insurance Policy" ("Policy
6 Audit"), in which Defendants once again misrepresented and fraudulently concealed
7 facts regarding the Policies from Plaintiffs.

8 205. The Policy Audits that were faxed and mailed to Plaintiffs each
9 affirmatively misrepresented and fraudulently concealed facts from Plaintiffs.
10 When PHL represented "YES" in response to the question of whether the Policies
11 were "in force," PHL knew and intended that the policyholder would believe that
12 PHL intended to honor the policy and pay the amounts stated and, in reasonable and
13 justifiable reliance on PHL's representations and assurances, the policyholder would
14 continue to pay premiums. Further, when PHL represented to a policyholder the
15 amounts of the policyholder's current death benefit, PHL knew and intended that the
16 policyholder would believe that PHL intended to honor the policy and pay the
17 amounts stated and, in reasonable and justifiable reliance on PHL's representations
18 and assurances, the policyholder would continue to pay premiums. The Policy
19 Audits faxed and mailed to Plaintiffs by PHL each falsely represented that PHL
20 considered the Policy in question "in force," valid and enforceable and that PHL had
21 no plan to challenge the Policy or deny benefits under the Policy. In providing this
22 information to Plaintiffs by fax and by mail, PHL fraudulently concealed that it has
23 no intention of paying the amounts stated, but instead intended to deny any claim for
24 benefits and to confiscate all premiums paid.

25 206. The above-described fraudulent scheme and predicate acts of
26 racketeering activity by Defendants in furtherance of that scheme constitutes an
27 ongoing and continuous pattern of racketeering activity. Plaintiffs are informed and
28 believe, and upon such information and belief allege, that there is a continuing threat

1 that Defendants will engage in future similar predicate acts of racketeering activity
2 in furtherance of their fraudulent scheme and in the conduct and/or participation,
3 directly or indirectly, in the conduct of the Enterprise's affairs.

4 207. As a direct and proximate result of Defendants' conduct and/or
5 participation, directly or indirectly, in the conduct of the Enterprise's affairs through
6 a pattern of racketeering activity described above, Plaintiffs have been injured in
7 their business and property in an amount in excess of Forty-Four Million Dollars
8 (\$44,000,000), and increasing, to be determined at trial which, pursuant to 18 U.S.C.
9 § 1964(c), shall be trebled. Among other things, Plaintiffs have been fraudulently
10 induced by the correspondence described above to pay PHL premiums for Policies
11 for which Defendants will not willingly pay death benefits.

12 208. Pursuant to 18 U.S.C. § 1964(c), Plaintiffs also are entitled to recover
13 from Defendants Plaintiffs' reasonable attorneys' fees and costs of suit herein.

14 **SECOND CLAIM FOR RELIEF**

15 **(Against Defendants For Violation of 18 U.S.C. § 1962 (c))**

16 209. Plaintiffs refer to above paragraphs 1 through 167, inclusive, and by
17 this reference incorporate the same herein as though fully set forth.

18 210. According to the 2011 Annual Report for PNX, dated March 15, 2012,
19 PNX is a holding company incorporated in Delaware whose principal operating
20 subsidiaries, Phoenix Life and its indirect subsidiary PHL, provide life insurance
21 and annuity products. The 2011 Annual Report represents that, as of December 31,
22 2011, PNX's operating subsidiaries had \$43.5 billion of net life insurance in force
23 and \$4.5 billion of annuity assets under management. PNX's 2011 Annual Report
24 describes two distinct operational business segments: a "Life and Annuity segment"
25 and a "Saybrus segment."

26 211. Plaintiffs are informed and believe, and upon such information and
27 belief allege, that, PNX, Phoenix Life and PHL have distributed, and continue to
28 distribute, their life insurance and annuity products through a network of third-party

1 insurance agents, independent financial professionals and intermediaries (the
2 “Independent Distributor Network”) who are free to, and do, sell products from a
3 variety of providers, i.e., they are not “captive” to PNX, Phoenix Life or PHL.
4 Plaintiffs are further informed and believe, and upon such information and belief
5 allege, that, the Independent Distributor Network allows Defendants access to
6 customers, particularly affluent and high-net-worth customers, that Defendants
7 otherwise would not have access to. Defendants sought out and recruited agents in
8 the Independent Distributors Network based on the agents having connections to
9 non-recourse premium finance programs, the capital markets, investment banks, and
10 other potential buyers of life insurance policies on the secondary market, because
11 Defendants knew such agents could generate much higher premium revenue than
12 other agents and could gain Defendants access to buyers wishing to later to sell their
13 policies on the secondary market.

14 212. PNX’s 2008 Annual Report, dated March 5, 2009, represents that: “We
15 provide life insurance and annuity products through a variety of third-party financial
16 professionals and intermediaries. . . .” The PNX 2008 Annual Report explains that:

17 We maintain a broad range of distribution relationships,
18 having built relationships with distributors who are, or
19 who have access to, advisors to the affluent and high-net-
20 worth market.

21
22 *State Farm:* Our relationship with a subsidiary of State
23 Farm Mutual Automobile Insurance Company (“State
24 Farm”) to provide our life and annuity products and
25 related services to State Farm’s affluent and high-net-
26 worth customers, through qualified State Farm agents
27 began in 2001. We have historically been the only third-
28 party provider of life and annuity products and services at

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State Farm, and State Farm’s only provider of variable life and annuity products. By the end of 2008, we had trained and certified approximately 11,025, or 98%, of State Farm’s approximately 11,202 securities licensed agents to sell Phoenix products. . . . In 2008, State Farm accounted for approximately 27% of our total life premiums and 68% of our annuity deposits. . . .

National Life: In February 2007, we entered into an alliance with National Life Group to offer our variable annuity products through their registered representatives. Under the alliance, members of the National Life Group have historically co-marketed Phoenix’s variable annuity products, including flexible premium deferred variable annuities and a single premium immediate variable annuity, through their registered representatives. . . .

Jefferson National: We have formed a strategic alliance with Jefferson National Life Insurance Company (“Jefferson National”) to target the rapidly growing segment of fee-based advisors in warehouses, regional broker-dealers and financial institutions. Under this alliance, the companies will leverage Jefferson National’s technology platform, designed expressly to serve the fee-based market, and Phoenix’s product expertise in applying innovative living benefits riders, such as the guaranteed minimum withdrawal benefit, to financial products.

1 *Brokerage General Agencies:* We also use Brokerage
2 General Agencies (“BGAs”) which offer specialty
3 products and services to agents and advisors. The services
4 they provide include product and case design,
5 underwriting negotiation and delivery, commission
6 payment and service. BGAs, in turn, look for carriers who
7 understand their business and can execute in these
8 areas. . . .

9
10 *National and Regional Broker-Dealers:* National and
11 regional broker-dealers are brokerage firms that engage
12 financial advisors as employees rather than as independent
13 contractors. To meet the evolving wealth management
14 needs of their customers, national and regional broker-
15 dealers offer products from third-party providers such as
16 Phoenix. We have relationships across all product lines in
17 important distribution outlets that target the high-net-
18 worth market including UBS, Wachovia and Raymond
19 James.

20
21 *Advisor Groups:* The recent industry trend toward
22 affiliations among small independent financial advisory
23 firms has led to advisor groups becoming a distinct class
24 of distributors. We are a provider of life insurance
25 products through Partners Marketing Group, Inc.
26 (“PartnersFinancial”) which, since 1999, has been an
27 important component of the National Financial Partners
28 (“NFP”) organization. . . .

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Insurance Companies: Insurance companies have been moving their agents into an advisor/planner role, resulting in a need to provide their agents, particularly their top producers, with a wider selection of life insurance products to sell. Insurance companies responded to this need, in part, by negotiating arrangements with third-party providers, including other insurance companies. In addition, we continue to maintain relationships with individual agents of other companies and independent agents.

Financial Planning Firms: Financial planning firms are brokerage firms that engage financial advisors as independent contractors rather than as employees. Financial planning firms have begun to expand their offerings to include wealth preservation and transfer products. To capitalize on this trend, we establish relationships with the financial planning firm, and then build relationships with the individual advisors within the firm. This approach permits us to maximize the number of individual registered representatives who potentially may sell our products.

Other Distribution Sources: Philadelphia Financial Group offers Phoenix private placement life and annuity products through a variety of distribution sources with access to the high-net-worth market including family offices, financial

1 institutions, private client groups, accountants and
2 attorneys. We also offer our life and annuity products
3 through non-traditional sources such as private banks,
4 private banking groups within commercial banks, and
5 regional and commercial banks that are focused on a high-
6 net-worth client base.

7 213. PHL's 2008 Annual Report Form 10-K for the period ending December
8 31, 2008 similarly represents that, "We distribute our products through non-
9 affiliated advisors, broker-dealers and other financial intermediaries. . . . In 2008,
10 our largest individual distributor of life insurance was a subsidiary of State Farm
11 Mutual Automobile Company. . . . Our distributors are generally free to sell
12 products from a variety of providers."

13 214. PNX's 2009 and 2010 Annual Reports again represent that, "We
14 provide life insurance and annuity products through third-party distributors
15 The 2010 Annual Report notes that, "In 2009, we refocused our distribution strategy
16 on independent marketing organizations ("IMOs") and independent producers. In
17 2010, we worked primarily within these relationships"

18 215. PNX's 2011 Annual Report, dated March 15, 2012, and PNX's Proxy
19 Statement, dated April 3, 2012, both represent that, "We are now a growing
20 boutique firm serving middle market customers' retirement and protection needs
21 through select independent distributors." The 2011 Annual Report adds that, "In
22 2009, consistent with our shift to the middle market, we began to distribute our
23 products through independent producers who typically are affiliated with one or
24 more independent marketing organizations ("IMOs")."

25 216. Plaintiffs are informed and believe, and upon such information and
26 belief allege, that, at all relevant times herein, the Life and Annuity segment and the
27 Independent Distributor Network (the "Enterprise II") was and is an association in
28 fact comprised of: (i) PNX and its operating subsidiaries, including PHL and

1 Phoenix Life, which provide life insurance and annuity products, and (ii) third-party
2 insurance agents, independent financial professionals and intermediaries who
3 distribute PNX, Phoenix Life and PHL life insurance and annuity products.

4 217. Plaintiffs are informed and believe, and upon such information and
5 belief allege, that, at all relevant times herein, the Enterprise II has had structure, a
6 hierarchy and a legitimate purpose (*i.e.*, providing and distributing life insurance and
7 annuity products throughout the United States). These elements are apparent in
8 Defendants' filings with the Securities and Exchange Commission and publications.

9 218. Plaintiffs are informed and believe, and upon such information and
10 belief allege, that, at all relevant times herein, PNX, Phoenix Life, and PHL each
11 have had a distinct role in the Enterprise II.

12 219. Plaintiffs are informed and believe, and upon such information and
13 belief allege, that, at all relevant times herein, PNX's role in the Enterprise II has
14 included strategic planning and policy making for the Enterprise II and management
15 of the Enterprise II.

16 220. Among other things, Plaintiffs are informed and believe, and upon such
17 information and belief allege, that PNX determines which life insurance and annuity
18 products are to be sold and distributed by the Enterprise II and the Enterprise II's
19 strategies and policies for marketing, underwriting and claims handling. By way of
20 example, at page 3 of PHL's Form 10-K for the period ending December 31, 2011,
21 PHL described PNX's role in determining the Enterprise II's business lines as
22 follows:

23 Since 2009, our ultimate parent company, The Phoenix
24 Companies, Inc. ("PNX"), has focused on selling products
25 and services that are less capital intensive and less
26 sensitive to its ratings. In 2011, PNX product sales were
27 primarily in annuities and 94% of those sales were fixed
28 indexed annuities. In addition, PNX expanded sales of

1 other insurance companies' policies through its
2 distribution subsidiary, Saybrus Partners, Inc. ("Saybrus").

3 221. At pages 30 - 32 of PHL's Form 10-K for the period ending December
4 31, 2011, PHL described PNX's "Enterprise Risk Management" for the
5 Enterprise II:

6 **Enterprise Risk Management**

7 Our ultimate parent company, PNX, has a comprehensive,
8 enterprise-wide risk management program under which
9 PHL Variable operations are covered. The Chief Risk
10 Officer reports to the Chief Financial Officer and monitors
11 our risk management activities. During 2009, as part of
12 our strategic repositioning and overall expense reduction
13 effort, we refined our approach to risk management across
14 the enterprise. We have an Enterprise Risk Management
15 Committee, chaired by our ultimate parent company's
16 Chief Executive Officer, whose functions are to establish
17 risk management principles, monitor key risks and oversee
18 our risk-management practices. Several management
19 committees oversee and address issues pertaining to all
20 our major risks—operational, market and product—as well
21 as capital management.

22 222. Plaintiffs are informed and believe, and upon such information and
23 belief allege, that, at all relevant times herein, PNX also has provided underwriting
24 for the Enterprise II's life insurance and annuity products through other PNX
25 subsidiaries. This arrangement is described at page F-37 of PHL's Form 10-K for
26 the period ending December 31, 2011:

27 Effective September 20, 2010, 1851 Securities, Inc., a
28 wholly-owned subsidiary of PM Holdings, Inc., became

1 the principal underwriter of the Company's variable life
2 insurance policies and variable annuity contracts. . . .
3 Prior to September 20, 2010, Phoenix Equity Planning
4 Corporation ("PEPCO"), an indirect wholly-owned
5 subsidiary of PNX, was the principal underwriter.

6 Plaintiffs are informed and believe, and upon such information and belief allege,
7 that at all relevant times herein, PM Holdings, Inc. is a holding company that is the
8 sole shareholder of PHL and, in turn, is a wholly owned subsidiary of Phoenix Life.
9 Thus, Plaintiffs are informed and believe, and upon such information and belief
10 allege, that at all relevant times herein, the underwriter for the Enterprise II, 1851
11 Securities, is a sister company of PHL and an indirect wholly owned subsidiary of
12 Phoenix Life which, in turn, is a wholly owned subsidiary of PNX.

13 223. Plaintiffs are informed and believe, and upon such information and
14 belief allege, that, at all relevant times herein, Phoenix Life's role in the Enterprise
15 II has included paying commissions for the Enterprise II's life insurance and annuity
16 products, providing key business services for the Enterprise II, and selling life
17 insurance products for the Enterprise II.

18 224. By way of example, as described above, at page F-37 of PHL's Form
19 10-K for the period ending December 31, 2011, PHL states that:

20 Phoenix Life reimburses 1851 [Securities, Inc., a wholly-
21 owned subsidiary of PM Holdings, Inc.] for commissions
22 incurred on our behalf and we in turn reimburse Phoenix
23 Life through a cost allocation process. Commissions
24 incurred were \$6,920 thousand and 15,736 thousand for
25 the years ended December 31, 2011 and 2010,
26 respectively. There were no amounts payable to Phoenix
27 Life related to commissions as of December 31, 2011 and
28 2010, respectively. . . . Phoenix Life reimbursed PEPCO

1 for commissions incurred on our behalf and we in turn
2 reimbursed Phoenix Life through a cost allocation process.
3 Commissions incurred were \$0, \$9,029 thousand and
4 \$16,271 thousand for the years ended December 31, 2011,
5 2010 and 2009, respectively.

6 225. Also by way of example, PHL's 2011 Annual Report to Insurance
7 Departments states that:

8 The Company [PHL] has entered into service agreements
9 with its affiliates, including the Parent Company, Phoenix
10 Life Insurance Company, related to cost reimbursement
11 for services. The agreement covers a variety of services
12 including, but not limited to, management fees for
13 business services, information technology services, office
14 space, investment advisory services, commission paying
15 services, and administrative services.

16 226. Plaintiffs are informed and believe, and upon such information and
17 belief allege, that, at all relevant times herein, PHL's role in the Enterprise II has
18 included premium processing services for the Enterprise II's life insurance and
19 annuity products and selling life insurance products for the Enterprise II.

20 227. For example, at pages F-37 and F-38 of PHL's Form 10-K for the
21 period ending December 31, 2011, PHL states that:

22 We provide payment processing services for Phoenix Life,
23 wherein we receive deposits on Phoenix Life annuity
24 contracts and forward those payments to Phoenix Life.
25 During 2006, we began including life insurance premiums
26 in this service. In connection with this service, we had
27 amounts due to Phoenix Life of \$4,226 thousand and
28 \$2,793 thousand as of December 31, 2011 and 2010,

1 respectively. We do not charge any fees for this service.

2 We also provide payment processing services for Phoenix
3 Life and Annuity Company (“Phoenix Life and Annuity”),
4 a wholly-owned indirect subsidiary of Phoenix Life,
5 wherein we receive deposits on certain Phoenix Life and
6 Annuity annuity contracts and forward those payments to
7 Phoenix Life and Annuity. During 2006, we began
8 including life insurance premiums in this service. In
9 connection with this service, we had amounts due from
10 Phoenix Life and Annuity of \$29 thousand as of December
11 31, 2011 and amounts due to Phoenix Life and Annuity of
12 \$47 thousand as of December 31, 2010.

13 We do not charge any fees for this service.

14 228. Plaintiffs are informed and believe, and upon such information and
15 belief allege, that, at all relevant times herein, Defendants, and each of them, have
16 operated, managed, conducted and participated in the conduct of the affairs of the
17 Enterprise II through common officers and directors at headquarters with a common
18 address, One American Row, Hartford, Connecticut. Plaintiffs refer to above
19 paragraphs 182 through 185, inclusive, and by this reference incorporate the same
20 herein as though fully set forth.

21 229. At all relevant times herein, each Defendant was and is a “person”
22 within the meaning of 18 U.S.C. § 1961 (3) because each Defendant was and is an
23 entity capable of holding a legal or beneficial interest in property.

24 230. At all relevant times herein, the Enterprise II was and is an “enterprise”
25 within the meaning of 18 U.S.C. § 1961 (4).

26 231. At all relevant times herein, each Defendant was and is a person
27 employed by or associated with the Enterprise II within the meaning of 18 U.S.C.
28 § 1962 (c).

1 232. Plaintiffs are informed and believe, and upon such information and
2 belief allege, that, within the past ten years, Defendants, and each of them, have
3 conducted and/or participated, directly or indirectly, in the conduct of the
4 Enterprise II's affairs through a pattern of racketeering activity within the meaning
5 of 18 U.S.C. § 1961 (5). The predicate acts of racketeering activity involved the
6 interstate use of the United States Postal Service and commercial interstate carriers
7 and the use of interstate wire communications in violation of 18 U.S.C. § 1341 (mail
8 fraud) and 18 U.S.C. § 1343 (wire fraud) and are described in paragraphs 192
9 through 205 above, which by this reference are incorporated herein as though fully
10 set forth.

11 233. Representative examples of communications faxed and mailed to
12 Plaintiffs by PHL as part of Defendants' plan to fraudulently induce Plaintiffs and
13 other policyholders to continue to pay premiums on the policies that Defendants
14 secretly intend to have PHL not honor when death benefits become due are set forth
15 in paragraph 201 above, which by this reference is incorporated herein as though
16 fully set forth.

17 234. At all relevant times herein, Defendants and the Enterprise II have been
18 involved in interstate commerce and their activities, as well as the predicate acts of
19 racketeering activity described above, have affected interstate commerce. Plaintiffs
20 are informed and believe, and upon such information and belief allege, that, at all
21 relevant times herein, the Enterprise II has provided and distributed life insurance
22 and annuity products to individuals throughout the United States. PNX transacts
23 business in all 50 states. PHL has been licensed to transact and has transacted
24 insurance business in every state except New York and Maine. Phoenix Life has
25 been licensed to transact and has transacted insurance business in all 50 states.

26 235. The above-described fraudulent scheme and predicate acts of
27 racketeering activity by Defendants in furtherance of that scheme constitutes an
28 ongoing and continuous pattern of racketeering activity. Plaintiffs are informed and

1 believe, and upon such information and belief allege, that there is a continuing threat
2 that Defendants will engage in future similar predicate acts of racketeering activity
3 in furtherance of their fraudulent scheme and in the conduct and/or participation,
4 directly or indirectly, in the conduct of the Enterprise II's affairs.

5 236. As a direct and proximate result of Defendants' conduct and/or
6 participation, directly or indirectly, in the conduct of the Enterprise II's affairs
7 through a pattern of racketeering activity described above, Plaintiffs have been
8 injured in their business and property in an amount in excess of Forty-Four Million
9 Dollars (\$44,000,000), and increasing, to be determined at trial which, pursuant to
10 18 U.S.C. § 1964(c), shall be trebled. Among other things, Plaintiffs have been
11 fraudulently induced by the correspondence described above to pay PHL premiums
12 for Policies for which Defendants will not willingly pay death benefits.

13 237. Pursuant to 18 U.S.C. § 1964(c), Plaintiffs also are entitled to recover
14 from Defendants Plaintiffs' reasonable attorneys' fees and costs of suit herein.

15 **THIRD CLAIM FOR RELIEF**

16 **(Against Defendants For Violation of 18 U.S.C. § 1962 (b))**

17 238. Plaintiffs refer to above paragraphs 1 through 167, inclusive, and by
18 this reference incorporate the same herein as though fully set forth.

19 239. At all relevant times herein, each Defendant was and is a "person"
20 within the meaning of 18 U.S.C. § 1961 (3) because each Defendant was and is an
21 entity capable of holding a legal or beneficial interest in property.

22 240. At all relevant times herein, the Enterprise, described in paragraphs 169
23 through 170 above, was and is an "enterprise" within the meaning of 18 U.S.C.
24 § 1961 (4).

25 241. At all relevant times herein, the Enterprise II, described in paragraphs
26 210 through 217 above, was and is an "enterprise" within the meaning of 18 U.S.C.
27 § 1961 (4).

28 242. Plaintiffs are informed and believe, and upon such information and

1 belief allege, that, at all relevant times herein, PNX, Phoenix Life, and PHL each
2 have had a distinct role in the Enterprise and/or the Enterprise II. Plaintiffs refer to
3 above paragraphs 171 through 180, inclusive, and 218 through 227, inclusive, and
4 by this reference incorporate the same herein as though fully set forth.

5 243. Plaintiffs are informed and believe, and upon such information and
6 belief allege, that, within the past ten years, Defendants, and each of them, have
7 acquired and/or maintained, directly or indirectly, an interest in or control of the
8 Enterprise and/or the Enterprise II through a pattern of racketeering activity within
9 the meaning of 18 U.S.C. § 1961 (5). The predicate acts of racketeering activity
10 involved the interstate use of the United States Postal Service and commercial
11 interstate carriers and the use of interstate wire communications in violation of 18
12 U.S.C. § 1341 (mail fraud) and 18 U.S.C. § 1343 (wire fraud), and are described in
13 paragraphs 192 through 205 above, which by this reference are incorporated herein
14 as though fully set forth.

15 244. Representative examples of communications faxed and mailed to
16 Plaintiffs by PHL as part of Defendants' plan to fraudulently induce Plaintiffs and
17 other policyholders to continue to pay premiums on the policies that Defendants
18 secretly intend to have PHL not honor when death benefits become due are set forth
19 in paragraph 201 above, which by this reference is incorporated herein as though
20 fully set forth.

21 245. At all relevant times herein, Defendants and the Enterprise and/or the
22 Enterprise II have been involved in interstate commerce and their activities, as well
23 as the predicate acts of racketeering activity described above, have affected
24 interstate commerce. Plaintiffs are informed and believe, and upon such
25 information and belief allege, that, at all relevant times herein, the Enterprise and/or
26 Enterprise II has provided and distributed life insurance and annuity products to
27 individuals throughout the United States. PNX transacts business in all 50 states.
28 PHL has been licensed to transact and has transacted insurance business in every

1 state except New York and Maine. Phoenix Life has been licensed to transact and
2 has transacted insurance business in all 50 states.

3 246. The above-described fraudulent scheme and predicate acts of
4 racketeering activity by Defendants in furtherance of that scheme constitutes an
5 ongoing and continuous pattern of racketeering activity. Plaintiffs are informed and
6 believe, and upon such information and belief allege, that there is a continuing threat
7 that Defendants will engage in future similar predicate acts of racketeering activity
8 in furtherance of their fraudulent scheme and in the acquisition and/or maintenance,
9 directly or indirectly, of an interest in or control of the Enterprise and/or the
10 Enterprise II.

11 247. Plaintiffs are informed and believe, and upon such information and
12 belief allege, that, through their pattern of racketeering activity, Defendants have
13 maintained control of the Enterprise and/or the Enterprise II. By maintaining
14 control of the Enterprise and/or the Enterprise II, Defendants have injured Plaintiffs.

15 248. As discussed above, PNX suffered a reported net loss of approximately
16 \$726 million in 2008. PNX reported an additional loss of \$319 million in 2009,
17 bringing to well over \$1 billion its reported total losses in 2008-2009. As a result of
18 these enormous losses, Defendants were downgraded by the ratings agencies to
19 “junk” bond range and were forced to fire a substantial portion of their workforce.
20 PNX’s stock, which had traded at over \$15 a share during much of 2007 plummeted
21 to as low as 21 cents a share in 2009.

22 249. Upon information and belief, Defendants have concluded that if the
23 policies PHL and Phoenix Life issued do not lapse, and Defendants were to pay
24 death benefits when due, Defendants’ financial well-being would be threatened and
25 Defendants might become insolvent.

26 250. Fighting for their own survival, Defendants have secretly decided and
27 agreed not to willingly pay claims for billions of dollars worth of death benefits
28 when the insureds ultimately die if the life insurance policy is owned by an

1 insurance trust and there has been a transfer of the policy or the beneficial interest in
2 a trust owning the policy. Defendants' undisclosed scheme is to lull Plaintiffs and
3 other policyholders into a false sense of security, and to induce Plaintiffs and other
4 policyholders to continue to pay premiums. This scheme allows Defendants to
5 maximize the amount of premiums billed and collected prior to the death of the
6 insureds and before PHL or Phoenix Life (depending upon which company issued
7 the policy) deny death benefits and seek to retain the premiums, and reap a financial
8 windfall, by asserting that the policy was a IOLI policy that purportedly is void *ab*
9 *initio*. Defendants' predicate acts of racketeering activity, described above, all
10 furthered this fraudulent scheme.

11 251. As a result of Defendants' efforts, PNX only lost \$12.6 million in 2010
12 and turned a modest profit in 2011. Had Defendants not lied to their policyholders,
13 and instead disclosed Defendants' true intentions, Defendants would have received
14 fewer premium dollars, their financial slide undoubtedly would have continued, and
15 they would have been less likely, or unable, to maintain control over the Enterprise
16 and/or the Enterprise II. However, due to Defendants' fraudulent scheme and
17 pattern of racketeering activity, Defendants have obtained ill-gotten gains, including
18 premiums from Plaintiffs, which they have used to maintain control over the Life
19 Enterprise and/or the Enterprise II.

20 252. As a direct and proximate result of Defendants' acquisition or
21 maintenance, directly or indirectly, of an interest in or control of the Enterprise
22 and/or the Enterprise II through a pattern of racketeering activity described above,
23 Plaintiffs have been injured in their business and property in an amount in excess of
24 Forty-Four Million Dollars (\$44,000,000), and increasing, to be determined at trial
25 which, pursuant to 18 U.S.C. § 1964(c), shall be trebled. Among other things, by
26 maintaining control over the Enterprise and/or the Enterprise II, Defendants have
27 destroyed the market's confidence in the Policies and significantly diminished the
28 value of the Policies, thus depriving Plaintiffs of their economic interests in the

1 Policies.

2 253. Pursuant to 18 U.S.C. § 1964(c), Plaintiffs also are entitled to recover
3 from Defendants Plaintiffs' reasonable attorneys' fees and costs of suit herein.

4 **FOURTH CLAIM FOR RELIEF**

5 **(Against Defendants For Violation of 18 U.S.C. § 1962 (d))**

6 254. Plaintiffs refer to above paragraphs 1 through 167, inclusive, 169
7 through 207, inclusive, 210 through 236, inclusive, and 239 through 252, inclusive,
8 and by this reference incorporate the same herein as though fully set forth.

9 255. As described in the preceding paragraphs, Defendants agreed and
10 conspired with each other to violate 18 U.S.C. § 1962 (c) and 18 U.S.C. § 1962 (b)
11 in violation of 18 U.S.C. § 1962 (d).

12 256. The above-described fraudulent scheme and predicate acts of
13 racketeering activity by Defendants in furtherance of that scheme constitutes an
14 ongoing and continuous pattern of racketeering activity. Plaintiffs are informed and
15 believe, and upon such information and belief allege, that there is a continuing threat
16 that Defendants will engage in future similar predicate acts of racketeering activity
17 in furtherance of their fraudulent scheme, in the conduct and/or participation,
18 directly or indirectly, in the conduct of the Enterprise's and/or the Enterprise II's
19 affairs, and in the acquisition and/or maintenance, directly or indirectly, of an
20 interest in or control of the Enterprise and/or the Enterprise II.

21 257. As a direct and proximate result of Defendants' conduct and/or
22 participation, directly or indirectly, in the conduct of the Enterprise's and/or the
23 Enterprise II's affairs through a pattern of racketeering activity described above, and
24 as a direct and proximate result of Defendants' acquisition or maintenance, directly
25 or indirectly, of an interest in or control of the Enterprise and/or the Enterprise II
26 through a pattern of racketeering activity described above, Plaintiffs have been
27 injured in their business and property in an amount in excess of Forty-Four Million
28 Dollars (\$44,000,000), and increasing, to be determined at trial which, pursuant to

1 18 U.S.C. § 1964(c), shall be trebled. Among other things: (i) Plaintiffs have been
2 fraudulently induced by the correspondence described above to pay PHL premiums
3 for Policies for which Defendants will not willingly pay death benefits; and, (ii) by
4 maintaining control over the Enterprise and/or the Enterprise II, Defendants have
5 destroyed the market's confidence in the Policies and significantly diminished the
6 value of the Policies, thus depriving Plaintiffs of their economic interests in the
7 Policies.

8 258. Pursuant to 18 U.S.C. § 1964(c), Plaintiffs also are entitled to recover
9 from Defendants Plaintiffs' reasonable attorneys' fees and costs of suit herein.

10 **FIFTH CLAIM FOR RELIEF**

11 **(Against Defendants For Fraud And Conspiracy)**

12 259. Plaintiffs refer to above paragraphs 1 through 167, inclusive, 169
13 through 207, inclusive, 210 through 236, inclusive, 239 through 252, inclusive, 255,
14 256, and 257 and by this reference incorporate the same herein as though fully set
15 forth.

16 260. As detailed in paragraphs 116-134 and 202-203 above, from 2009 to
17 2012, PHL made representations of fact to Plaintiffs that were false. Specifically,
18 on the dates identified in paragraphs 116-134 and 202-203 above, PHL sent
19 premiums notices, Annual Policy Summaries, policy illustrations, VOCs, Policy
20 Audits and letters to Plaintiffs (care of each Plaintiff's trustee) that were intended to,
21 and did, assure Plaintiffs of the Policies' validity and good standing. When PHL
22 represented to Plaintiffs that it considered the Policies to be valid and in good
23 standing, PHL knew these representations to be false. PHL made these
24 representations with the intention to deceive and defraud Plaintiffs and to induce
25 Plaintiffs to act in reliance on these representations.

26 261. Plaintiffs, at the time the representations were made by PHL and at the
27 time Plaintiffs took the actions herein alleged, were ignorant of the falsity of PHL's
28 representations and believed them to be true.

1 262. As detailed in paragraphs 116-134 and 202-203 above, PHL also
2 knowingly or intentionally concealed from Plaintiffs the material facts that it had the
3 present intent to attempt to induce a lapse and challenge each of the Policies as void
4 *ab initio* and retain all premiums paid under each of the Policies.

5 263. PHL accepted premium payments from Plaintiffs under false pretenses,
6 while concealing the material facts that it had adopted an internal policy or practice
7 whereby PHL continued to collect premium payments on policies that it intended to
8 challenge as being void *ab initio* after the insureds' deaths or after earning sufficient
9 profits after collecting as much in premiums as PHL deemed adequate, and intended
10 to retain all premiums paid on those policies. PHL had sole knowledge or access to
11 these facts and knew that such facts were not known to or reasonably discoverable
12 by Plaintiffs. PHL thus had a duty to disclose such facts to Plaintiffs. PHL
13 nonetheless intentionally concealed these facts with the intent to defraud Plaintiffs.

14 264. Plaintiffs did not discover, and could not have discovered with
15 reasonable diligence, the true facts related to their fraud claim until 2012.

16 265. In reasonable and justifiable reliance on PHL's representations and
17 omissions, Plaintiffs were induced to, and did pay premiums to PHL in the total sum
18 of more than \$44,000,000, and increasing, as of the date of this Complaint. Had
19 Plaintiffs known the true facts, which PHL concealed, they would not have paid
20 such amounts.

21 266. As described in paragraphs 169 through 207, 210 through 236, 239
22 through 252, and 255 through 257 above, PHL also formed and operated a
23 conspiracy with Phoenix Life and PNX to defraud owners of PHL policies,
24 including Plaintiffs. Each Defendant knowingly and willfully participated in the
25 conspiracy and knowingly and willfully committed wrongful acts pursuant to, and in
26 furtherance of, the conspiracy in the manner described in paragraphs 169 through
27 207, 210 through 236, 239 through 252, and 255 through 257 above. Each
28

1 Defendant knew that their conduct, and that of the conspiracy, was wrongful and
2 had an unlawful purpose.

3 267. As a direct and proximate result of PHL's fraudulent
4 misrepresentations and omissions, and as a direct and proximate result of
5 Defendants' conspiracy and the wrongful acts committed pursuant to and in
6 furtherance thereof, Plaintiffs have been damaged in an amount to be proven at trial
7 but not less than the jurisdictional limit of this court.

8 268. The aforementioned conduct was an intentional misrepresentation,
9 deceit and/or concealment of material facts known to Defendants, with the intention
10 on the part of Defendants of thereby depriving Plaintiffs of property, legal rights or
11 otherwise causing injury; was despicable conduct that subjected Plaintiffs to cruel
12 and unjust hardship in conscious disregard of Plaintiffs' rights; was intended by
13 Defendants to cause injury to Plaintiffs; and was despicable conduct which was
14 carried on by Defendants with a willful and conscious disregard of Plaintiffs' rights,
15 so as to justify an award of exemplary and punitive damages.

16 **SIXTH CLAIM FOR RELIEF**

17 **(Against PHL For Declaratory Judgment)**

18 269. Plaintiffs refer to above paragraphs 1 through 167, inclusive, 169
19 through 207, inclusive, 210 through 236, inclusive, 239 through 252, inclusive, 255,
20 256, 257, and 260 through 267, inclusive, and by this reference incorporate the same
21 herein as though fully set forth.

22 270. The Policies constitute valid and enforceable written contracts between
23 each of the Plaintiffs, on the one hand, and PHL, on the other. By way of example,
24 the policy of life insurance issued to John Doe Trust 1 by PHL constitutes a valid
25 and enforceable written contract between John Doe Trust 1 and PHL.

26 271. Each Plaintiff is the sole owner and beneficiary of the Policy issued to
27 it by PHL. By way of example, John Doe Trust 1 is the sole owner and beneficiary
28 of the life insurance policy issued to John Doe Trust 1.

1 272. Plaintiffs, and each of them, have complied with all applicable terms
2 and conditions of the Policies including the timely payment of premiums due under
3 the Policies to date.

4 273. PHL has implemented a practice in which it routinely and consistently
5 denies claims made under policies similar to the Policies at issue (*i.e.*, where the
6 policy or trust interest has been sold on the secondary market). When PHL receives
7 a death claim from a trust policy owner, PHL refuses to pay the claim unless the
8 trust completes forms and supplies information not required by the terms of PHL's
9 policies, which provide that PHL will promptly pay claims upon receipt of due proof
10 of death. And, if the beneficial interest in the trust has been transferred to a third
11 party, PHL denies the claim on the basis that the policy purportedly lacks an
12 insurable interest. In such instances, PHL further takes the position, contrary to the
13 explicit language in its policies requiring the return of premiums when PHL contests
14 a policy, that it is entitled not only to avoid coverage but also to retain all premiums
15 paid for the policy in question. Further, PHL already has attempted to rescind five
16 other policies owned by trusts for which Wilmington Savings, as successor-in-
17 interest to Christiana Bank, serves as trustee and several policies involving the same
18 agents as many of the Policies at issue here. On information and belief, PHL also
19 has internally identified the Policies as ones which it plans to later challenge, and
20 already has decided that it will not honor the Policies when death benefits become
21 due and that it will ultimately deny any claim submitted under the Policies.

22 274. PHL's systematic refusal to pay claims due under similar policies, and
23 refusal to return premiums when it contests a policy, has impaired the economic
24 value of the Policies.

25 275. Accordingly, an actual case or controversy exists among the parties.

26 276. Plaintiffs seek a declaration that there is no basis for rescission or
27 voiding of the Policies and seek to have them declared in full force and effect to
28 provide insurance coverage on the lives of the insureds.

1 283. Plaintiffs, and each of them, have complied with all applicable terms
2 and conditions of the Policies including the timely payment of premiums due under
3 the Policies to date.

4 284. PHL's cost of insurance increases have materially breached the Policies
5 in several respects. First, PHL breached the Policies by increasing the cost of
6 insurance rates based on a policy's accumulated value because accumulated value is
7 not one of the permissible and enumerated bases for increasing the cost of insurance
8 rates. Second, PHL breached the Policies by increasing the cost of insurance rates
9 based on a policy's accumulated value because such an increase does not apply
10 uniformly to a class of insureds. Third, PHL breached the Policies because its cost
11 of insurance increases were not, on information and belief, based on the permissible
12 factors stated in the Policies, such as expectations of future mortality and
13 persistency. Fourth, PHL breached the Policies because, on information and belief,
14 the cost of insurance increases were impermissibly designed to recoup past losses.

15 285. As a result of PHL's material breaches of the Policies by improperly
16 raising the cost of insurance rates, Plaintiffs have been damaged as alleged herein in
17 an amount to be proven at trial which is greater than the jurisdictional minimum of
18 \$75,000.

19 286. PHL has further materially breached the Policies by attempting to
20 restrict Plaintiffs' transfer rights, in direct contradiction to the terms of the Policies.

21 287. The Policies expressly provide that the policy owner has the right to
22 change ownership of the policy, change the beneficiary of the policy, and assign
23 rights to the policy. Further, the Policies place no restriction on the ability to
24 transfer a beneficial interest in or ownership of the entity that owns the policy.
25 These are important and valuable policyholder rights, and were a significant
26 inducement to Plaintiffs' purchase of the Policies.

27 288. Contrary to the terms of the Policies, PHL has improperly attempted to
28 place retroactive restrictions on Plaintiffs' transfer rights. PHL has demanded that it

1 be advised of any future transfers of beneficial interests in the trusts that own the
2 Policies and stated that it will deny coverage under the Policies if such changes are
3 made without its permission, which, under the Policies, Plaintiffs are not required to
4 seek. This unequivocal refusal to abide by the terms of the Policies is a material
5 breach of contract by PHL.

6 289. As a result of PHL's material breaches of the Policies by improperly
7 restricting Plaintiffs' transfer rights, Plaintiffs have been damaged as alleged herein,
8 including the market value of the Policies having been diminished in value, in an
9 amount to be proven at trial which is greater than the jurisdictional minimum of
10 \$75,000.

11 **EIGHTH CLAIM FOR RELIEF**

12 **(Against PHL For Contractual Breach of the Implied Covenant of Good Faith**
13 **and Fair Dealing)**

14 290. Plaintiffs refer to above paragraphs 1 through 167, inclusive, 169
15 through 207 inclusive, 210 through 236, inclusive, 239 through 252, inclusive, 255,
16 256, 257, 260 through 267, inclusive, 270 through 279, inclusive, and 281 through
17 288, inclusive, and by this reference incorporate the same herein as though fully set
18 forth.

19 291. The Policies constitute valid and enforceable written contracts between
20 each of the Plaintiffs, on the one hand, and PHL, on the other. By way of example,
21 the policy of life insurance issued to John Doe Trust 1 by PHL constitutes a valid
22 and enforceable written contract between John Doe Trust 1 and PHL.

23 292. Each Plaintiff is the sole owner and beneficiary of the Policy issued to
24 it by PHL. By way of example, John Doe Trust 1 is the sole owner and beneficiary
25 of the life insurance policy issued to John Doe Trust 1.

26 293. Plaintiffs, and each of them, have complied with all applicable terms
27 and conditions of the Policies including the timely payment of premiums due under
28 the Policies to date.

1 294. Each of the Policies includes an implied covenant that PHL will act in
2 good faith and deal fairly with Plaintiffs.

3 295. PHL breached the implied covenant of good faith and fair dealing by
4 undermining Plaintiffs' right to pay premiums as needed to cover their monthly
5 deductions, including the cost of insurance. By increasing the cost of insurance
6 based on the policy's accumulated value, PHL is, among other things, penalizing
7 and deterring Plaintiffs from exercising their contractual right to maintain a minimal
8 accumulated policy value, which PHL has no right to do.

9 296. PHL also breached the implied covenant of good faith and fair dealing
10 by using the cost of insurance rates to make the Policies prohibitively expensive and
11 trying to cause Plaintiffs and other policyholders to lapse or surrender their policies
12 so that PHL can keep the premiums and never have to pay the death benefits.

13 297. PHL has also breached the implied covenant of good faith and fair
14 dealing by attempting to restrict Plaintiffs' transfer rights, in direct contradiction to
15 the terms of the Policies.

16 298. The Policies expressly provide that the policy owner has the right to
17 change ownership of the policy, change the beneficiary of the policy, and assign
18 rights to the policy. Further, the Policies place no restriction on the ability to
19 transfer a beneficial interest in or ownership of the entity that owns the policy.

20 299. Contrary to the terms of the Policies, PHL has improperly attempted to
21 place retroactive restrictions on Plaintiffs' transfer rights. PHL has demanded that it
22 be advised of any future transfers of beneficial interests in the trusts that own the
23 Policies and stated that it will deny coverage under the Policies if such changes are
24 made without its permission, which, under the Policies, Plaintiffs are not required to
25 seek. This unequivocal refusal to abide by the terms of the Policies was done in bad
26 faith and with the intention of depriving Plaintiffs of their rights under the Policies
27 and is a breach of the implied covenant of good faith.
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1 300. PHL has further breached the implied covenant of good faith by
2 internally determining that it will deny benefits due under the Policies, yet
3 continuing to charge premiums under the Policies and otherwise representing to
4 Plaintiffs that the Policies continue to be in good standing. These actions by PHL
5 were taken in bad faith and with the intention of depriving Plaintiffs of the benefit of
6 the Policies.

7 301. As a direct and proximate cause of PHL's contractual breaches of the
8 implied covenant of good faith and fair dealing Plaintiffs have been damaged as
9 alleged herein in an amount to be proven at trial.

10 **NINTH CLAIM FOR RELIEF**

11 **(Against PHL for Promissory Estoppel)**

12 302. Plaintiffs refer to above paragraphs 1 through 167, inclusive, 169
13 through 207 inclusive, 210 through 236, inclusive, 239 through 252, inclusive, 255,
14 256, 257, 260 through 267, inclusive, 270 through 279, inclusive, 281 through 288,
15 inclusive, and 291 through 300, inclusive, and by this reference incorporate the
16 same herein as though fully set forth.

17 303. PHL entered into the Policies in exchange for Plaintiffs' agreement to
18 pay millions of dollars in premiums in return for PHL insuring the lives of the
19 insureds.

20 304. PHL reasonably expected to induce Plaintiffs to pay millions of dollars
21 in premiums in return for PHL insuring the lives of the insureds.

22 305. Plaintiffs entered into the Policies in good faith, reasonably relied on
23 PHL's promise to comply with its obligations under the Policies, and understood
24 (and continue to understand) that a valid insurable interest existed at the inception of
25 the Policies such that the Policies were (and are) legal and enforceable.

26 306. At the time it issued the Policies, PHL knew or should have reasonably
27 known all of the relevant facts relating to whether an insurable interest existed at the
28 inception of the Policies.

1 311. Section 38a-815 provides that no individual, corporation, limited
2 liability company or other person shall engage in Connecticut in “any trade practice
3 which is defined in section 38a-816 as, or determined pursuant to sections 38a-817
4 and 38a-818 to be, an unfair method of competition or an unfair or deceptive act or
5 practice in the business of insurance, *nor shall any domestic insurance company*
6 *engage outside of this state in any act or practice defined in subsections (1) to (12),*
7 *inclusive, of section 38a-816.* (Emphasis added.)

8 312. Connecticut General Statutes § 38a-816 defines unfair methods of
9 competition and unfair and deceptive acts or practices in the business of insurance.

10 313. Under Section 38a-816(1), unfair methods of competition and unfair
11 and deceptive acts or practices in the business of insurance include: “[m]aking,
12 issuing or circulating, or causing to be made, issued or circulated, any estimate,
13 illustration, circular or statement, sales presentation, omission or comparison which:
14 (a) Misrepresents the benefits, advantages, conditions or terms of any insurance
15 policy; . . . [and] (f) is a misrepresentation, including, but not limited to, an
16 intentional misquote of a premium rate, for the purpose of inducing or tending to
17 induce to the purchase, lapse, forfeiture, exchange, conversion or surrender of any
18 insurance policy.”

19 314. Under Section 38a-816(6), unfair methods of competition and unfair
20 and deceptive acts or practices in the business of insurance include: “[c]ommitting
21 or performing with such frequency as to indicate a general business practice any of
22 the following: (a) Misrepresenting pertinent facts or insurance policy provisions
23 relating to coverages at issue.”

24 315. As a Connecticut corporation, PHL also is governed by and subject to
25 the provisions of the Connecticut Unfair Trade Practices Act, Connecticut General
26 Statutes §§ 42-110a, *et seq.* (“CUTPA”).

27 316. Connecticut General Statutes § 42-110b provides that “[n]o person
28 shall engage in unfair methods of competition and unfair or deceptive acts or

1 practices in the conduct of any trade or commerce.” Violation of the CUIPA may be
2 predicate acts or practices within the meaning of Connecticut General Statutes § 42-
3 110 (b) in violation of the CUTPA.

4 317. Plaintiffs are informed and believe, and upon such information and
5 belief allege, that the wrongful conduct by PHL described above constituted unfair
6 methods of competition and unfair and deceptive acts or practices in the business of
7 insurance in violation of Connecticut General Statutes §§ 38a-816(1) and (6), and
8 each of them.

9 318. Plaintiffs are informed and believe, and upon such information and
10 belief allege, that the wrongful conduct by PHL in violation of Connecticut General
11 Statutes §§ 38a-816(1) and (6) described above also constituted unfair methods of
12 competition and unfair or deceptive acts or practices in the conduct of any trade or
13 commerce in violation of Connecticut General Statutes § 42-110b.

14 319. Plaintiffs are informed and believe, and upon such information and
15 belief allege, that the wrongful conduct by PHL described above offends public
16 policy as it has been established by the CUIPA and CUTPA and the common law, is
17 immoral, unethical, oppressive or unscrupulous and has caused substantial injury to
18 Plaintiffs and other consumers and business persons.

19 320. Plaintiffs, and each of them have suffered an ascertainable loss of
20 money and personal property as a result of PHL’s use or employment of a method,
21 act or practice prohibited by Connecticut General Statutes § 42-110b. Pursuant to
22 Connecticut General Statutes § 42-110g (a) and (g), Plaintiffs, and each of them, are
23 entitled to an award of damages in an amount not less than \$44,000,000, and
24 increasing, according to proof, punitive damages and Plaintiffs’ reasonable
25 attorneys’ fees and costs of suit herein.

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ELEVENTH CLAIM FOR RELIEF

(Against PHL For Violation Of California’s Unfair Competition Law (Cal. Bus. & Prof. Code §§ 17200, *Et Seq.*)

321. Plaintiffs Jane Doe Trust 2, Jane Doe Trust 4, John Doe Trust 8, John Doe Trust 9, John Doe Trust 10, John Doe Trust 11, John Doe Trust 12, John Doe Trust 13, John Doe Trust 14, John Doe Trust 15, John Doe Trust 18, John Doe Trust 19, John Doe Trust 20, John Doe Trust 21, John Doe Trust 23, John Doe Trust 25, John Doe Trust 26, John Doe Trust 29, John Doe Trust 31, John Doe Trust 32, John Doe Trust 33, John Doe Trust 39, John Doe Trust 41, John Doe Trust 45, Jane Doe Trust 57, and John Doe Trust 60 (the “UCL Plaintiffs”) refer to above paragraphs 1 through 167, inclusive, 169 through 207 inclusive, 210 through 236, inclusive, 239 through 252, inclusive, 255, 256, 257, 260 through 267, inclusive, 270 through 279, inclusive, 281 through 288, inclusive, and 291 through 300, inclusive, and by this reference incorporate the same herein as though fully set forth.

322. California’s Unfair Competition Law (“UCL”), Cal. Bus. & Prof. Code §§ 17200, *et seq.*, prohibits any unlawful, unfair or fraudulent business act or practice.

323. At all relevant times herein, PHL engaged in unlawful conduct in violation of the UCL in that its aforescribed conduct violates the federal mail and wire fraud statutes, 18 U.S.C. §§ 1341 and 1343, RICO law, 18 U.S.C. §§ 1962(b), 1962(c) and 1962(d), and California Insurance Code § 790.03.

324. At all relevant times herein, PHL engaged in fraudulent conduct in violation of the UCL by making the misrepresentations of material facts, concealing material facts and failing to disclose material facts as described in paragraphs 116-134 and 202-203 above.

325. At all relevant times herein, PHL engaged in unfair conduct in violation of the UCL by engaging in the deceptive and sharp business practices described

1 above, including but not limited to defrauding PHL policyholders and systematically
2 breaching policies (and the implied covenant of good faith and fair dealing included
3 therein) that are owned by trusts. PHL's business practices offend established
4 public policy, and are immoral, unethical, oppressive, unscrupulous and
5 substantially injurious to consumers.

6 326. The UCL Plaintiffs have been injured as a direct and proximate result
7 of PHL's above-described violations of the UCL.

8 327. By reason of the above-described violations of the UCL, the UCL
9 Plaintiffs are entitled to a preliminary and permanent injunction enjoining PHL from
10 engaging in its unfair, unlawful and fraudulent acts and practices. The UCL
11 Plaintiffs are entitled to ancillary relief in the form of restitution for monies paid to
12 PHL, and the disgorgement of profits obtained from the UCL Plaintiffs by reason of
13 PHL's unfair, unlawful and deceptive acts and practices.

14 328. This action will confer a significant benefit upon the general public,
15 insureds, and trusts by stopping PHL from continuing to engage in unfair, unlawful
16 and deceptive acts and practices. The UCL Plaintiffs therefore are entitled to
17 recover their attorneys' fees and costs incurred herein pursuant to California Code of
18 Civil Procedure § 1021.5.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiffs pray that the Court enter judgment ordering as
21 follows:

22 **On the First Claim for Relief:**

23 1. For damages in an amount no less than \$44,000,000 to be determined at
24 trial and trebled, together with prejudgment and post-judgment interest thereon as
25 allowed by law; and

26 2. For Plaintiffs' reasonable attorneys' fees incurred herein.
27
28

1 On the Second Claim for Relief:

2 1. For damages in an amount no less than \$44,000,000 to be determined at
3 trial and trebled, together with prejudgment and post-judgment interest thereon as
4 allowed by law; and

5 2. For Plaintiffs' reasonable attorneys' fees incurred herein.

6 On the Third Claim for Relief:

7 1. For damages in an amount no less than \$44,000,000 to be determined at
8 trial and trebled, together with prejudgment and post-judgment interest thereon as
9 allowed by law; and

10 2. For Plaintiffs' reasonable attorneys' fees incurred herein.

11 On the Fourth Claim for Relief:

12 1. For damages in an amount no less than \$44,000,000 to be determined at
13 trial and trebled, together with prejudgment and post-judgment interest thereon as
14 allowed by law; and

15 2. For Plaintiffs' reasonable attorneys' fees incurred herein.

16 On the Fifth Claim for Relief:

17 1. For damages in an amount no less than \$44,000,000 to be determined at
18 trial, together with prejudgment and post-judgment interest thereon as allowed by
19 law; and

20 2. For punitive damages in an amount to be determined at trial.

21 On the Sixth Claim for Relief:

22 1. For a judicial declaration that: (a) the Policies, and each of them, are in
23 full force and effect; (b) there is no basis for rescinding or voiding the Policies, or
24 any of them; (c) PHL has improperly raised the cost of insurance charges for the
25 Policies, and each of them, in violation of the Policies' terms, and must reduce the
26 charges and reimburse each Plaintiff for all amounts received from that Plaintiff as
27 a result of improperly increased cost of insurance charges; and (d) if the Court
28 determines that any Policy is rescinded or void, PHL must return to the Plaintiff

1 owning that Policy all premiums paid for the Policy together with prejudgment
2 interest thereon from the date the Policy is rescinded or voided.

3 On the Seventh Claim for Relief:

4 1. For damages in an amount in excess of \$75,000 to be determined at
5 trial, together with prejudgment and post-judgment interest thereon as allowed by
6 law.

7 On the Eighth Claim for Relief:

8 1. For damages in an amount in excess of \$75,000 to be determined at
9 trial, together with prejudgment and post-judgment interest thereon as allowed by
10 law.

11 On the Ninth Claim for Relief:

12 1. For damages in an amount in excess of \$75,000 to be determined at
13 trial, together with prejudgment and post-judgment interest thereon as allowed by
14 law.

15 On the Tenth Claim for Relief:

16 1. For damages in an amount no less than \$44,000,000 to be determined at
17 trial, together with prejudgment and post-judgment interest thereon as allowed by
18 law;

19 2. For punitive damages in an amount to be determined at trial; and

20 3. For Plaintiffs' reasonable attorneys' fees incurred herein.

21 On the Eleventh Claim for Relief:

22 1. For a preliminary and permanent injunction enjoining PHL from
23 engaging in its unfair, unlawful and fraudulent acts and practices;

24 2. For an order requiring PHL to account to Plaintiffs for all money and
25 property obtained by PHL from Plaintiffs;

26 3. For an order requiring PHL to make restitution to Plaintiffs for all
27 monies received from Plaintiffs and disgorge all profits obtained from Plaintiffs,
28

1 together with prejudgment and post-judgment interest thereon as allowed by law;
2 and

3 4. For Plaintiffs' reasonable attorneys' fees incurred herein.

4 On all Claims for Relief:

5 1. For Plaintiffs' costs of suit herein incurred; and

6 2. For such other and further relief as the Court may deem just.

7 DATED: September 10, 2012

NANCY SHER COHEN
LARY ALAN RAPPAPORT
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8
9 JOHN FAILLA (admitted *pro hac vice*)
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DEMAND FOR JURY TRIAL

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Plaintiffs hereby demand a jury trial in the above-entitled action on all claims for relief for which plaintiffs are entitled to a trial by jury.

DATED: September 10, 2012

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