

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

STATE OF FLORIDA, OFFICE OF THE
ATTORNEY GENERAL, DEPARTMENT
OF LEGAL AFFAIRS,

Plaintiff,

v.

GENERAL CHEMICAL CORPORATION,
GENERAL CHEMICAL PERFORMANCE
PRODUCTS, LLC, GENERAL CHEMICAL
LLC, GENTEK INC., CHEMTRADE
LOGISTICS INCOME FUND, CHEMTRADE
CHEMICALS CORPORATION,
CHEMTRADE CHEMICALS US, LLC,
CHEMTRADE SOLUTIONS, LLC, GEO
SPECIALTY CHEMICALS, INC., C&S
CHEMICALS, INC., and C&S CHEMICALS
OF GEORGIA,

Defendants.

_____ /

COMPLAINT

JURY TRIAL DEMANDED

Case No. _____

Plaintiff, the State of Florida, Office of the Attorney General, Department of Legal Affairs (“State of Florida”), files this Complaint against Defendants General Chemical Corporation, General Chemical Performance Products, LLC, General Chemical LLC, Gentek Inc., Chemtrade Logistics Income Fund, Chemtrade Chemicals Corporation, Chemtrade Chemicals US, LLC, Chemtrade Solutions, LLC, GEO Specialty Chemicals, Inc., C&S Chemicals, Inc., and C&S Chemicals of Georgia (hereafter “Defendants”), and alleges:

I. NATURE OF THE ACTION

1. The State of Florida brings this action against the Defendants under the Sherman Act, the Florida Antitrust Act, and the Florida Deceptive and Unfair Trade Practices Act on

behalf of itself and its governmental entities, municipalities, and on behalf of consumers within Florida.

2. Defendants conspired to suppress and eliminate competition with respect to the sale, marketing, and distribution of liquid aluminum sulfate. Liquid aluminum sulfate is purchased by Plaintiff and its governmental entities, municipalities, and businesses in Florida.

3. Defendants agreed, combined, and conspired to inflate, fix, raise, maintain, or artificially stabilize the prices of liquid aluminum sulfate.

4. Defendants agreed to “stay away” from each other’s “historical” customers, accounts, and territories.

5. Due to Defendants’ unlawful conduct, Florida governmental entities, Florida municipalities, and Florida businesses have paid higher-than-competitive prices for liquid aluminum sulfate and have thereby suffered antitrust injury to their business or property. Florida governmental entities, Florida municipalities, and Florida businesses were also deprived of the benefits of competition in the pricing of liquid aluminum sulfate.

6. Defendants’ conspiracy affected millions of dollars of commerce in Florida and the United States.

7. The relevant time period for the unlawful conduct complained of herein is as early as January 1, 1997 through at least February 2012 (the “Relevant Period”).

8. The Attorney General of Florida has reviewed this matter and determined that an enforcement action serves the public interest.

II. JURISDICTION AND VENUE

9. Count One alleges violations of Section 1 of the Sherman Act, 15 U.S.C. § 1. It is filed under Section 4 of the Clayton Act, 15 U.S.C. § 15 and Section 16 of the Clayton Act, 15

U.S.C. § 26. This Court has original jurisdiction over the federal antitrust claim pursuant to 28 U.S.C. §§ 1331 and 1337.

10. Counts Two and Three arise under the Florida Antitrust Act, Section 542.15, *et seq.*, Florida Statutes, and the Florida Deceptive and Unfair Trade Practices Act, Section 501.201, *et seq.*, Florida Statutes. This Court has subject matter jurisdiction over the state claims pursuant to 28 U.S.C. § 1367 because these claims are so related to the federal claim that they form part of the same case or controversy that would ordinarily be tried in one judicial proceeding. The exercise of supplemental jurisdiction avoids unnecessary duplication and multiplicity of actions and is in the interest of judicial economy, convenience, and fairness.

11. Venue is proper in the United States District Court for the District of New Jersey under 15 U.S.C. § 22 and 28 U.S.C. § 1391. Each Defendant resides, transacts business, committed an illegal or tortious act, or is found in this district, and a substantial part of the events giving rise to the claims arose in this District.

III. PARTIES

A. Plaintiff

12. The State of Florida is authorized to file Count I under 15 U.S.C. §§ 15 and 26 for damages and injunctive relief.

13. The Attorney General of Florida is the chief legal officer of Florida and the enforcement authority of Chapter 542, Florida Statutes, and is authorized to file Count II seeking the full range of relief afforded by Chapter 542, Florida Statutes.

14. The Department of Legal Affairs of Florida is the enforcing authority for violations of Chapter 501, Florida Statutes, and has the authority to file Count III to enjoin any person who has violated the Florida Deceptive and Unfair Trade Practices Act and to seek actual

damages on behalf of one or more individual consumers, municipalities, and governmental entities in Florida, including direct and indirect purchasers.

B. Defendants

15. General Chemical Corporation (“GCC”) was a corporation existing under the laws of Delaware with its principal place of business located at 90 East Halsey Road, suite 301, Parsippany, New Jersey 07054. GCC, directly and/or through its wholly owned and/or controlled subsidiaries, affiliates, or parents produced, marketed, and sold liquid aluminum sulfate to Florida governmental entities, municipalities, and Florida businesses during the Relevant Period.

16. General Chemical Performance Products, LLC (“GCPP”) was a limited liability company existing under the laws of Delaware during the Relevant Period with its principal place of business located at 90 East Halsey Road, Parsippany, New Jersey, 07054. GCPP was at all relevant times a wholly owned subsidiary of GCC. GCPP, directly and/or through its wholly owned and/or controlled subsidiaries, affiliates, or parents produced, marketed, and sold liquid aluminum sulfate to Florida governmental entities, municipalities, and Florida businesses during the Relevant Period.

17. General Chemical LLC (“GenChem LLC”) was a limited liability company existing under the laws of Delaware during the Relevant Period with its principal place of business located at 90 East Halsey Road, Parsippany, New Jersey 07054. GenChem LLC was at all relevant times a wholly owned subsidiary of GCPP. GenChem LLC, directly and/or through its wholly owned and/or controlled subsidiaries, affiliates, or parents produced, marketed, and sold liquid aluminum sulfate to Florida governmental entities, municipalities, and Florida

businesses during the Relevant Period. Defendants GCC, GCPP, and GenChem LLC are referred to collectively herein as “General Chemical.”

18. GenTek Inc. (“GenTek”) was a corporation existing under the laws of Delaware with its principal place of business located at 90 East Halsey Road, Parsippany, New Jersey 07054. The General Chemical entities were wholly owned and controlled subsidiaries of GenTek from approximately 1999 to October 2009. At all relevant times, as General Chemical’s parent company, GenTek was fully aware of General Chemical’s role and participation in its unlawful price-fixing and market allocation conspiracy as described herein.

19. On or about October 11, 2002, GenTek filed a voluntary Chapter 11 petition in the United States Bankruptcy Court for the District of Delaware, including bankruptcy filings on behalf of its subsidiaries, including General Chemical. Effective October 7, 2003, GenTek and General Chemical were discharged from bankruptcy under a plan of reorganization. After emerging from bankruptcy, General Chemical reaffirmed its participation in the conspiracy through specific post-bankruptcy actions taken by General Chemical in furtherance of the conspiracy as alleged below. General Chemical also reaffirmed its participation in the conspiracy, in part, by continuing to engage in the conduct described herein with respect to liquid aluminum sulfate.

20. Chemtrade Logistics Income Fund (“CLIF”), located at 155 Gordon Baker Road, Suite 300, Toronto, Ontario, Canada M2H 3N5, is a Canadian provider of industrial chemicals and services to customers in North America and around the world. Effective December 2013, CLIF and its wholly owned subsidiaries Chemtrade Chemicals Corporation, Chemtrade Chemicals US, LLC, and Chemtrade Solutions, LLC acquired all of the outstanding shares of ASP GT Holding Corp., thereby assuming all of that company’s liabilities as well as the

liabilities of its General Chemical subsidiaries. As the legal successor in interest to General Chemical, Defendants CLIF, Chemtrade Chemicals Corporation, Chemtrade Chemicals US, LLC, and Chemtrade Solutions, LLC assumed the liability for damages flowing from the conspiracy to fix prices, allocate customers, and rig bids.

21. Chemtrade Chemicals Corporation is a Delaware corporation located at 90 East Halsey Road, Parsippany, New Jersey 07054. It is a wholly owned and controlled subsidiary of Defendant CLIF and is a successor in interest to General Chemical.

22. Chemtrade Chemicals US, LLC is a Delaware limited liability company located at 90 East Halsey Road Parsippany, New Jersey 07054. It is a wholly owned and controlled subsidiary of Defendant Chemtrade Chemicals Corporation and is a successor in interest to General Chemical.

23. Chemtrade Solutions, LLC (“Chemtrade Solutions”) is a Delaware limited liability company located at 90 East Halsey Road, Parsippany, New Jersey 07054. It is a wholly owned and controlled subsidiary of Defendant Chemtrade Chemicals Corporation and is a successor in interest to General Chemical. Defendants Chemtrade Chemicals Corporation, Chemtrade Chemicals US, LLC, and Chemtrade Solutions, LLC are referred to collectively herein as “Chemtrade.”

24. GEO Specialty Chemicals, Inc. (“GEO”) is an Ohio corporation with its principal place of business located at 340 Mathers Road, Ambler, Pennsylvania 19002-3420 and corporate finance offices located at 401 S. Earl Avenue, Suite 3, Lafayette, Indiana 47904. GEO produced, marketed, and sold liquid aluminum sulfate to Florida governmental entities, municipalities, and Florida businesses during the Relevant Period.

25. On or about March 18, 2004, GEO filed a voluntary Chapter 11 petition in the United States Bankruptcy Court for the District of New Jersey. Effective December 20, 2004, GEO emerged from bankruptcy under a plan of reorganization. GEO participated in the conspiracy alleged herein throughout the Relevant Period through the actions of GEO's senior executives. After emerging from bankruptcy, GEO reaffirmed its participation in the conspiracy through specific post-bankruptcy actions taken by GEO in furtherance of the conspiracy as alleged below. GEO also reaffirmed its participation in the conspiracy, in part, by continuing to engage in the conduct described herein with respect to liquid aluminum sulfate.

26. C&S Chemicals, Inc. is a Pennsylvania corporation with its principal place of business located at 4180 Providence Road, Marietta, Georgia 30062. C&S Chemicals, Inc., directly and/or through its wholly owned and/or controlled subsidiaries, affiliates, or parents produced, marketed, and sold liquid aluminum sulfate to Florida governmental entities, municipalities, and Florida businesses during the Relevant Period.

27. C&S Chemicals of Georgia is a Delaware corporation with its principal place of business located at 4180 Providence Road, Marietta, Georgia 30062. C&S Chemicals of Georgia directly and/or through its wholly owned and/or controlled subsidiaries, affiliates, or parents produced, marketed, and sold liquid aluminum sulfate to Florida governmental entities, municipalities, and Florida businesses during the Relevant Period. C&S Chemicals, Inc. and C&S Chemicals of Georgia are referred to collectively herein as "C&S Chemicals."

IV. CO-CONSPIRATORS AND AGENTS

28. On information and belief, various other persons, companies, and corporations unknown to the State of Florida conspired with the Defendants in the violations of law alleged in

this Complaint. These co-conspirators engaged in conduct and made statements in furtherance of the conspiracy.

29. Defendants are also liable for acts done in furtherance of the alleged conspiracy by companies they acquired through mergers or acquisitions.

V. BACKGROUND

A. **Liquid Aluminum Sulfate**

30. Liquid aluminum sulfate is a coagulant used to remove impurities and other substances from water. The principal customers for liquid aluminum sulfate are municipalities, which use it in potable water and wastewater treatment, and pulp and paper manufacturers, which use it in their manufacturing processes.

31. Municipalities usually acquire their supplies of liquid aluminum sulfate through a publicly-advertised competitive bidding process. Municipal contracts for liquid aluminum sulfate are usually one year in duration, although some contracts provide for renewal for a period of time. The results of municipal bidding processes are typically made public.

32. Pulp and paper manufacturers usually acquire their supplies of liquid aluminum sulfate pursuant to requests for price issued to suppliers of liquid aluminum sulfate. The terms of the resulting contracts are subject to negotiation between the suppliers who respond to requests for price and the pulp and paper manufacturers. Contracts for supply of liquid aluminum sulfate to pulp and paper manufacturers may last for a year or more. The results of the negotiations between the liquid aluminum sulfate suppliers and the pulp and paper manufacturers are typically not made public.

33. Liquid aluminum sulfate is sold by the ton. Supplies of liquid aluminum sulfate are transported to the customer by rail or truck. The cost of freight is a significant component of

the price of liquid aluminum sulfate charged to municipal customers and pulp and paper manufacturers.

34. Throughout the Relevant Period, Defendants consistently implemented artificially high price increases—often, simultaneously—that cannot be explained by fundamental market characteristics.

35. The key raw materials and input costs for liquid aluminum sulfate are bauxite and sulfuric acid. During the Relevant Period, defendants raised liquid aluminum sulfate prices or maintained high prices, despite the declining or stable cost of these key raw materials.

36. The cost of bauxite declined by almost 50% from 1991 to 2003, rose by only \$6 per ton from 2003 to 2007, and then leveled off and declined slightly by the end of 2007. From 2008 to 2010, bauxite declined a further \$3 to \$4 per ton.

37. The cost of sulfuric acid, another key input, was relatively stable from 1997 to 2007. After a brief spike in 2008, sulfuric acid costs began to fall in early 2009, leveling off at historic lows for the remainder of 2009 and 2010.

38. The pricing of these primary input costs of liquid aluminum sulfate—bauxite and sulfuric acid—cannot fully explain the rise in liquid aluminum sulfate prices during the Relevant Period. Instead, Defendants' illegal conspiracy to fix the price of liquid aluminum sulfate resulted in the State of Florida and its governmental entities, municipalities, and businesses paying artificially inflated prices.

39. The characteristics and structure of the liquid aluminum sulfate market in Florida and throughout the United States are conducive to collusion and cartelization.

40. When a market is concentrated and dominated by a small number of firms, economic theory holds that it is easier to form and maintain an effective cartel. The market for

liquid aluminum sulfate is highly concentrated, dominated by a small number of producers. In the United States market, General Chemical was the largest manufacturer of liquid aluminum sulfate with approximately 45% market share. GEO had approximately 20% of the market for liquid aluminum sulfate. Further, the aluminum sulfate industry experienced consolidation leading up to and during the Relevant Period.

41. The liquid aluminum sulfate market has high barriers to entry that prevent or hinder new firms from entering or competing in the market. The barriers to entry include significant costs of manufacturing, production, transportation, and regulatory compliance. A new entrant in the market must have sufficient capital to construct plants to manufacture and produce liquid aluminum sulfate.

42. Further, liquid aluminum sulfate cannot be easily substituted with other chemicals. While other chemicals are used to treat water, each water treatment facility is configured to use a specific chemical, and cannot switch to another chemical without undergoing a costly and time-consuming overhaul of its equipment. Because water treatment is a vital public service, and because water treatment facilities cannot easily switch to other chemicals, demand for liquid aluminum sulfate is inelastic and is not significantly impacted by changes in price. This lack of available substitutes, as a result, renders collusion more likely among liquid aluminum manufacturers because consumers cannot avoid supra-competitive prices by switching to another water chemical product.

43. Liquid aluminum sulfate, additionally, is a commodity product, which means that market participants compete principally on the basis of price. Commoditized products are susceptible to coordination because firms wishing to form a cartel can easily monitor and detect

defections from a price-fixing agreement where observed differences in prices, other than those arising because of differences in product grade, are more likely to reflect cheating on the cartel.

44. The market for liquid aluminum sulfate, moreover, was mature and stable during the Relevant Period. Manufacturers faced with static demand have a greater incentive to collude to avoid market share or price competition with competitors.

45. Defendants sold liquid aluminum sulfate to municipalities, governmental entities, and businesses in the State of Florida during the Relevant Period. Plaintiff and Florida governmental entities, Florida municipalities, and Florida businesses paid more for liquid aluminum sulfate than they would have paid absent the conspiracy.

B. Government Investigation

46. On October 27, 2015, the United States Department of Justice (“DOJ”) announced the indictment of Frank Reichl, a former executive of Defendants General Chemical Corporation and General Chemical Performance Products LLC, for his role in a conspiracy to eliminate competition by fixing prices, rigging bids, and allocating customers for liquid aluminum sulfate in the United States.

47. In the plea agreement, Reichl admitted to “violating 15 U.S.C. § 1 in connection with a combination and conspiracy to suppress and eliminate competition in the sale and marketing of liquid aluminum sulfate by agreeing to rig bids and allocate customers for, and to fix, stabilize, and maintain the price of, liquid aluminum sulfate sold to municipalities and pulp and paper companies in the United States from at least as early as 1997 and continuing until approximately July 2010.”

48. As part of the plea agreement, Reichl agreed to cooperate with the DOJ in the continued federal investigation of violations of the antitrust laws involving the sale and marketing of liquid aluminum sulfate in the United States.

49. On February 17, 2016, the DOJ announced the indictments of Vincent J. Opalewski, a former executive of Defendant General Chemical Corporation, and Brian C. Steppig, a former executive of Defendant GEO, for their roles in a conspiracy to eliminate competition by fixing prices, rigging bids, and allocating customers for liquid aluminum sulfate in the United States in violation of the Sherman Act, 15 U.S.C. § 1.

50. The indictment alleges that Opalewski and Steppig and their co-conspirators “entered into and engaged in a combination and conspiracy to suppress and eliminate competition in the sale and marketing of liquid aluminum sulfate by agreeing to rig bids and allocate customers for, and to fix, stabilize, and maintain the price of liquid aluminum sulfate sold to municipalities and pulp and paper companies in the United States.”

51. According to the indictment, Opalewski participated in the conspiracy from at least as early as 2005 through approximately February 2011. The indictment alleges that Steppig participated in the conspiracy from at least as early as 1998 and continuing until approximately February 2011.

52. On June 16, 2016, Defendant GEO entered a plea agreement with the DOJ agreeing to plead guilty to one violation of the Sherman Antitrust Act, 15 U.S.C. § 1, in connection with its sales of liquid aluminum sulfate.

53. In the plea agreement, GEO admitted to “violating 15 U.S.C. § 1 in connection with a conspiracy to rig bids and allocate customers for, and to fix the price of, liquid aluminum

sulfate supplied to municipalities and pulp and paper manufacturers in the United States from at least as early as 1997 and continuing until approximately February 2011.”

54. According to the Information, GEO and its co-conspirators:
- a. met to discuss each other’s liquid aluminum sulfate business;
 - b. agreed to “stay away” from each other’s historical customers by not pursuing the business of those customers;
 - c. kept track of bid and pricing histories to determine which accounts were the “historical” customers of each co-conspirator and other supplier of liquid aluminum sulfate so as to determine whether to pursue a particular contract or to submit an intentionally losing or “throw away” bid or price quotation;
 - d. submitted intentionally losing bids or “throw away” bids or price quotations to each other’s historic liquid aluminum sulfate customers to favor the intended winner of the business;
 - e. met to discuss prices to be quoted or bid to customers by the intended winner to determine the amount of the intended loser’s intentionally losing bid or price quotation;
 - f. withdrew inadvertently winning bids from another co-conspirator’s historical customers at the request of the co-conspirator;
 - g. where a co-conspirator could not withdraw its inadvertently winning bid at the historical customer of a co-conspirator, bidding to lose one of its own customers to compensate for the loss of that historical customer; and

h. instructed new employees as to how to determine whether and how to bid on or quote a price for liquid aluminum sulfate customers so as to comport with the agreements not to compete with the co-conspirators.

55. In the plea agreement, GEO admitted that the volume of commerce affected by the conspiracy and attributable to GEO is \$152,798,166. Although the Sentencing Guidelines indicated GEO should pay a fine in the range of approximately \$24 million to \$48 million, GEO was sentenced to pay a fine in the amount of \$5 million as a result of GEO's inability to repay a fine in the Sentencing Guidelines range. In addition to the fine, GEO was sentenced to five years of probation.

56. In a document filed in its case against Frank Reichl, the DOJ stated that "[t]here are potentially hundreds of municipalities and pulp and paper companies that were affected over the thirteen-year course of the conspiracy. . . ."

57. Defendant CLIF has disclosed that Chemtrade had received "conditional amnesty" in the DOJ investigation "concerning alleged anticompetitive conduct in the water treatment chemicals industry." The DOJ grants conditional amnesty only where the leniency applicant admits there is evidence suggesting that a criminal violation of the antitrust laws occurred. The disclosure of the guilty pleas of Reichl and GEO indicates that CLIF was referring to the investigation of liquid aluminum sulfate.

VI. DEFENDANTS' ANTICOMPETITIVE CONDUCT

58. During the Relevant Period, Defendants General Chemical, GEO, and C&S Chemicals and their co-conspirators conspired to circumvent competitive bidding and independent pricing and to raise liquid aluminum sulfate prices by submitting artificially inflated bids in Florida and elsewhere.

59. The object and effect of this unlawful behavior has been to raise, fix, maintain, and stabilize the prices of liquid aluminum sulfate in Florida and elsewhere.

60. The conspiracy was organized at the highest levels of Defendants' organizations and was carried out by both executives and subordinate employees.

61. Defendants acted to support and monitor their overarching conspiracy throughout the Relevant Period. Those actions included regular communications with each other in private, including discussions of specific bids and accounts. Executives from C&S Chemicals, General Chemical, and GEO communicated with their competitors by telephone, email, or at meetings on at least hundreds of occasions. These executives included GEO executive Brian Steppig; General Chemical executives Frank Reichl, Vincent Opalewski, Michael Housel, Amita Gupta, and Rich Fedison; and C&S Chemicals executive Rob Chandler. Alex Avraamides participated while he was an executive with GEO and General Chemical.

62. The following acts and communications are examples of conduct by Defendants in furtherance of their conspiracy to elevate liquid aluminum sulfate prices.

A. Allocation Between General Chemical and GEO

63. On information and belief, in 1997, General Chemical executives Frank Reichl and Alex Avraamides met with GEO executive Dennis Grandle to discuss the companies' liquid aluminum sulfate business. During this meeting, General Chemical and GEO agreed to stay away from each other's historical customers and to not bid competitively for those accounts.

64. On information and belief, the customer allocation and price fixing agreement for liquid aluminum sulfate between General Chemical and GEO continued through at least February 2011.

65. During the Relevant Period, GEO and General Chemical executives maintained

their conspiracy by agreeing to allocate specific customers and by coordinating bidding strategies and price increases. For example, on information and belief, GEO and General Chemical agreed to allocate the liquid aluminum sulfate account of a pulp and paper manufacturer in Florida to GEO from 2004 to 2011, resulting in inflated revenues to GEO of approximately \$2.9 million.

66. To facilitate the unlawful agreement, General Chemical and GEO executives discussed customer allocation in telephone calls and meetings. These executives included GEO executive Brian Steppig; and General Chemical executives Frank Reichl, Vincent Opalewski, Michael Housel, Amita Gupta, and Rich Fedison. Alex Avraamides participated while he was an executive with GEO and General Chemical.

67. Moreover, the competitors undertook efforts to monitor and enforce the conspiracy. For example, GEO kept track of its communications with General Chemical in an effort to monitor compliance with the liquid aluminum sulfate customer allocation agreement.

68. On another occasion, a General Chemical senior employee suggested that the General Chemical record-keeping system for bidding results should allow General Chemical employees to distinguish between accounts lost intentionally and accounts lost unintentionally.

69. Additionally, when a “competitor” won another Defendant’s historic account, whether intentionally or accidentally, Defendants conspired to restore their respective levels of business by allowing the losing Defendant to gain a similarly sized account from the winning Defendant.

B. Allocation Between General Chemical and C&S Chemicals

70. On information and belief, General Chemical and C&S Chemicals agreed to stay away from each other’s historical customers in Florida and to not bid competitively for those accounts.

71. During the Relevant Period, C&S Chemicals consistently submitted throw-away bids for accounts held by General Chemical. C&S Chemicals intentionally lost these accounts by bidding significantly higher than General Chemical—sometimes by hundreds of dollars per ton—without any plausible business justification. General Chemical, similarly, submitted throw-away bids for “historical” C&S Chemical accounts.

72. During dozens of Florida bidding events throughout the Relevant Period, C&S Chemicals and General Chemical stayed away from each other’s “historical” accounts in Florida. For example, from 2004 through 2010, C&S Chemicals gained only a single, small Florida account in which General Chemical was the incumbent. Similarly, General Chemical refrained from bidding competitively for C&S Chemicals’ historical customers in Florida.

73. General Chemical and C&S Chemicals’ water treatment chemical plants were not working at or near capacity for the production of liquid aluminum sulfate during the Relevant Period. There was no capacity-related reason for either to not compete for liquid aluminum sulfate business in Florida. Absent an antitrust conspiracy, the presence of excess capacity, particularly for a commodity product, means that firms are incentivized to increase their sales by maintaining or even lowering prices, not increasing them.

74. Without C&S Chemicals as a competitive check, General Chemical executives knew that they could raise prices throughout Florida. In late 2008, for example, Amita Gupta assessed the competitive state of General Chemical’s plants, including its plant in Tampa, Florida. She indicated that C&S Chemicals knew better than to compete with General Chemical, and that General Chemical could therefore extract substantial price increases from its customers.

75. As Defendants implemented their anticompetitive scheme, executives from C&S Chemicals and General Chemical communicated frequently. These executives included General

Chemical executives Frank Reichl, Michael Housel, Amita Gupta, and Alex Avraamides; and C&S Chemicals executive Rob Chandler.

76. Upon information and belief, General Chemical and C&S Chemicals agreed to allocate municipal and governmental liquid aluminum sulfate accounts throughout Florida. The following are representative examples of Defendants' anticompetitive scheme.

77. The Peace River Manasota Regional Water Supply Authority ("Peace River") is consistently one of the largest liquid aluminum sulfate purchasers in Florida. On information and belief, General Chemical and C&S Chemicals agreed to allocate Peace River's liquid aluminum sulfate account to C&S Chemicals.

78. Both General Chemical and C&S Chemicals maintain plant locations that are close to the Peace River account. Either company could economically and competitively serve the Peace River account.

79. Yet, from 2002 through 2012, only C&S Chemicals held the account.

80. General Chemical regularly submitted sham bids, or no bid at all, aimed at losing bidding events, despite General Chemical's ability to supply the account profitably.

81. In March 2003, for example, Frank Reichl told a General Chemical sales representative to purposely lose the Peace River account. As a result, General Chemical submitted the same losing price they had offered Peace River the prior year and again lost the account to C&S Chemicals.

82. Later that year, in December 2003, C&S Chemicals experienced significant quality issues with their liquid aluminum sulfate. General Chemical responded by offering an emergency supply of liquid aluminum sulfate to Peace River on a temporary basis. One General Chemical executive acknowledged that C&S Chemicals' problems presented General Chemical

with a competitive opportunity to win the Peace River account long term. Yet, when Peace River went out to bid in March 2004, General Chemical decided not to bid aggressively. General Chemical executives indicated that the company's primary objectives were to pursue only their historical customers and to promote market stability in Florida and Northern Georgia.

83. As a result, and despite significant quality issues in the prior year, C&S Chemicals won the 2004 Peace River account while raising its price. General Chemical submitted an uncompetitive bid.

84. The pattern of General Chemical submitting sham bids (or no bid at all) to Peace River while C&S Chemicals raised its price year after year continued through 2009.

85. In 2005, C&S Chemicals retained the Peace River account while increasing its price by \$19 per ton.

86. In 2006, C&S Chemicals retained the Peace River account while increasing its price by \$29 per ton.

87. In 2007, C&S Chemicals retained the Peace River account while increasing its price by \$30 per ton.

88. In 2008, C&S Chemicals retained the Peace River account while increasing its price by \$45 per ton.

89. In 2009, C&S Chemicals retained the Peace River account while increasing its price by almost \$26 per ton. General Chemical did not bid.

90. In February 2010, General Chemical employees received a request from a liquid aluminum sulfate distributor for support to supply Peace River. Internally, one General Chemical employee asked whether Peace River was the account on which they were not allowed to bid. His coworker, responding affirmatively, noted that the account would have to be bid

directly, and not through a distributor. This ensured the distributor would not upset the market by submitting a competitive bid, and General Chemical would have the freedom to submit a losing bid or no bid at all.

91. On March 8, 2010—two days before the yearly bid for Peace River was due—C&S Chemicals’ president, Rob Chandler, placed a phone call to competitor Michael Housel, General Chemical’s Director of Sales & Marketing, at 3:48 pm. The two spoke for twelve minutes. Less than two hours later, Housel emailed a General Chemical Business Manager to ask whether there was an upcoming bid for a large Florida account in which C&S Chemicals was the incumbent. The General Chemical Business Manager responded affirmatively and highlighted Peace River. After sending this email, Housel immediately called Amita Gupta, General Chemical’s Director of Marketing for water chemicals. Housel and Gupta spoke for 18 minutes.

92. Two days later, on March 10, 2010, General Chemical submitted a “no bid” to Peace River. C&S Chemicals won the account.

93. In 2011, C&S Chemicals again retained the Peace River account with a bid of \$217 per ton. General Chemical submitted an uncompetitive bid of \$400 per ton.

94. Similarly, in February 2012, C&S Chemicals retained the Peace River account with a bid of \$187 per ton, while General Chemical submitted an uncompetitive bid of \$348 per ton.

95. The Peace River account holds additional regional significance. As one of the largest Florida liquid aluminum sulfate accounts, nearby municipalities often “piggyback” the Peace River account by fulfilling their own liquid aluminum sulfate requirements with the same pricing and terms offered to Peace River. Conspiring to allocate the Peace River account and to

raise Peace River's prices, as a result, had the direct effect of artificially raising liquid aluminum sulfate prices for additional municipalities and governmental entities throughout the region.

96. On information and belief, in exchange for the Peace River account, C&S Chemicals consistently avoided and intentionally lost bids for "historical" General Chemical accounts in Florida and elsewhere.

97. For example, General Chemical held the liquid aluminum sulfate account of the City of Fort Myers, Florida ("Fort Myers") from at least 1996 through 2011, even though both General Chemical and C&S Chemicals maintained plant locations that could have economically served the city. C&S Chemicals' plant in Bartow, in fact, is closer to Fort Myers than General Chemical's Tampa plant, providing C&S Chemicals with a strong incentive to bid competitively on the account.

98. On information and belief, after 2001, C&S Chemicals avoided or intentionally lost Fort Myers bidding events through at least 2008, leaving General Chemical to raise prices unchecked. In 2005, for example, General Chemical was the sole bidder on the Fort Myers account, allowing General Chemical to extract a price increase of \$25 per ton. General Chemical subsequently raised prices on the Fort Myers account by another \$30 per ton in 2006 and an additional \$20 per ton in 2007. In 2008, General Chemical raised Fort Myers' price by \$115 per ton.

99. As with the Peace River account, nearby municipalities often "piggyback" the Fort Myers account by fulfilling their own liquid aluminum sulfate requirements with the same pricing and terms offered to Fort Myers. Conspiring to allocate the Fort Myers account and to raise Fort Myers' prices, as a result, had the direct effect of artificially raising liquid aluminum sulfate prices for additional municipalities and governmental entities throughout the region.

100. On information and belief, General Chemical and C&S Chemicals' conduct surrounding Hillsborough County, Florida's liquid aluminum sulfate account further illustrates their allocation scheme.

101. Until 2006, Hillsborough County was a C&S Chemicals' "historical" account for over 8 years, despite each company's close proximity to the account.

102. In January 2006, however, C&S Chemicals asked General Chemical to supply the Hillsborough County account. This request was made only a month before C&S Chemicals' bid for Peace River in which it raised prices by \$29 per ton—unchecked by General Chemical. In March 2006, General Chemical won the Hillsborough County bid and captured a price increase. Meanwhile, C&S Chemicals submitted a throw-away bid that was well above the prices C&S Chemicals had charged Hillsborough County previously.

103. In March 2008, Frank Reichl emailed Michael Housel regarding Hillsborough County's upcoming liquid aluminum sulfate bid and expressed concern that C&S Chemicals might take the account by mistake. Housel responded that General Chemical could safely win the account with a bid of \$269 per ton—a significant increase over Hillsborough County's previous prices.

VII. TRADE AND COMMERCE

104. Throughout the Relevant Period, Defendants and their co-conspirators engaged in the sale and marketing of liquid aluminum sulfate in a continuous and uninterrupted flow of interstate trade and commerce to governmental entities and businesses located in Florida and the United States.

105. Defendants' and their co-conspirators' unlawful activities took place within the flow of and substantially affected interstate trade and commerce, as well as trade and commerce

within the State of Florida. Defendants' and their co-conspirators' conduct had a direct, substantial, and reasonably foreseeable effect on domestic interstate commerce within the United States, including Florida. As a direct and proximate result of the acts as alleged herein, the general economy of the United States, including Florida, sustained injury. Defendants sold liquid aluminum sulfate in the United States and in the State of Florida. Defendants sold directly and indirectly to Florida governmental entities and businesses. These effects proximately caused the injuries alleged in this Complaint because Florida governmental entities, municipalities, and businesses paid more for liquid aluminum sulfate than they would have absent the conspiracy.

VIII. THE PASS-THROUGH OF OVERCHARGES TO CONSUMERS

106. Defendants' and their co-conspirators' conspiracy to raise, fix, maintain, and/or stabilize the price of liquid aluminum sulfate at artificial levels resulted in harm to the State of Florida and its businesses, municipalities, and governmental entities because the conspiracy resulted in higher prices for liquid aluminum sulfate than they would have paid in the absence of Defendants' and their co-conspirators' conspiracy. The entire overcharge at issue was passed on to the State of Florida and its governmental entities, municipalities, and businesses.

IX. FRAUDULENT CONCEALMENT/EQUITABLE ESTOPPEL

107. Fraudulent concealment, a species of equitable estoppel in Florida, precludes Defendants from asserting a statute of limitations defense in this matter.

108. To the extent that Defendants claim that the State of Florida's filing is late, Defendants bear responsibility for the late filing.

109. Defendants and their co-conspirators committed fraudulent acts and actively concealed those acts, including concealing the existence of the conspiracy alleged in this Complaint.

110. The State of Florida exercised due diligence to learn of its legal rights and, despite such diligence, failed to uncover the possible existence of the violations alleged in this Complaint.

111. The State of Florida did not discover, and could not have discovered through the exercise of reasonable diligence, the existence of the conspiracy alleged herein until October 27, 2015, when the guilty plea of Frank Reichl was first made available to the public. Defendants are directly responsible for any delay in the filing of this Complaint.

112. Defendants and their co-conspirators fraudulently concealed the existence of the violations alleged in this Complaint.

113. Defendants engaged in a successful, illegal price-fixing conspiracy that by its nature was inherently self-concealing. Defendants had secret conversations in order for the conspiracy to be less likely detected. Liquid aluminum sulfate is not exempt from antitrust regulation, and thus, prior to the public disclosure of the criminal investigation, the State of Florida reasonably considered the liquid aluminum sulfate market to be a well-regulated and competitive industry.

114. Moreover, Defendants represented publicly, both to customers and otherwise, that their pricing and bidding activities were competitive. In so representing, Defendants affirmatively concealed the fact of their anticompetitive scheme.

115. The municipal water district bid requests often contained anti-collusion statements to which each bidder had to subscribe. Defendants falsely swore that they were complying with those clauses, thereby affirmatively concealing from the entities requesting such bids that collusion was occurring.

116. Similarly, in responding to requests for proposals sent out by paper and pulp manufacturers, Defendants did not disclose that they were collusively rigging bids.

117. Defendants often asserted that the reasons for their price increases were the result of higher raw material costs without disclosing their conspiracy to fix and maintain the prices of liquid aluminum sulfate.

118. The affirmative acts of Defendants and their co-conspirators alleged in this Complaint were wrongfully concealed and were carried out in a manner that precluded detection. Furthermore, Defendants and their co-conspirators knew their activities were illegal.

119. In the context of the circumstances surrounding Defendants' and their co-conspirators' pricing practices, Defendants' and their co-conspirators' acts of concealment were more than sufficient to preclude suspicion by a reasonable person that Defendants' and their co-conspirators' bidding and pricing was not the result of competition.

120. The State of Florida could not have discovered the alleged contract, conspiracy, or combination at an earlier date by the exercise of reasonable diligence because of the deceptive practices and techniques of secrecy employed by the Defendants and their co-conspirators to fraudulently conceal and to avoid detection of their contract, combination, or conspiracy.

121. Because the alleged conspiracy was both self-concealing and affirmatively concealed by Defendants and their co-conspirators, the State of Florida had no knowledge of the alleged conspiracy or of any facts or information that would have caused a reasonably diligent person to investigate whether a conspiracy existed until the guilty plea of Frank Reichl was first made public on October 27, 2015.

122. Upon having reasonable suspicion of the existence of Defendants' and their co-conspirators' conspiracy, the State of Florida exercised due diligence by promptly investigating, to the extent permitted by law, the facts giving rise to the claims asserted herein.

123. None of the facts or information available to the State of Florida prior to October 27, 2015, if investigated with reasonable diligence, could or would have led to the discovery of Defendants' conspiracy alleged herein prior to October 27, 2015.

124. For these reasons, Defendants and their co-conspirators' fraudulent concealment tolled the statute of limitations applicable to Plaintiff's claims which did not begin to run or were otherwise tolled until October 27, 2015.

X. VIOLATIONS ALLEGED

COUNT I

(Violation of Section One of the Sherman Act)

125. The State of Florida incorporates and re-alleges, as though fully set forth herein, each and every allegation set forth in paragraphs 1 through 124 of this Complaint.

126. Defendants' acts violate Section 1 of the Sherman Act, 15 U.S.C. § 1, and the State of Florida is entitled to damages and injunctive relief resulting from the Defendants' conduct as stated above.

127. Defendants knowingly—that is, voluntarily and intentionally—entered into a continuing agreement, understanding, and conspiracy to raise, fix, maintain, and/or stabilize the prices charged for liquid aluminum sulfate during the Relevant Period.

128. The State of Florida and its governmental entities, municipalities, and businesses directly purchased liquid aluminum sulfate from Defendants.

129. Defendants and their co-conspirators furthered and effectuated their conspiracy in the following ways, among others:

- a. Participating in secret communications, discussions, and meetings in the U.S. and elsewhere to exchange confidential and competitively sensitive information regarding each other's liquid aluminum sulfate business;
- b. Agreeing during those conversations and meetings to "stay away" from each other's "historical" customers by not pursuing the business of those customers;
- c. Tracking bid and pricing histories to determine which accounts were the "historical" customers of each co-conspirator or other supplier of liquid aluminum sulfate, so as to determine whether to pursue a particular contract or to submit an intentionally losing or "throw away" bid or price quotation;
- d. Submitting intentionally losing or "throw away" bids or price quotations to each other's "historic" liquid aluminum sulfate customers or accounts;
- e. From time to time, discussing and agreeing during those conversations and meetings to set a price floor to be quoted to a customer by the intended winner to determine the amount of the intended loser's intentionally losing or "throw away" bid or price quotation;
- f. Where a co-conspirator could not withdraw its inadvertently winning bid, bidding to lose on one of its own customers to compensate for the loss of that "historical" customer;
- g. Instructing new employees how to determine whether and how to bid on or quote a price for the business of liquid aluminum sulfate customers so as to comport with the agreement not to compete between Defendants and co-conspirators; and

h. Selling liquid aluminum sulfate to customers or accounts at collusive and non-competitive prices in the U.S. and Florida.

130. The State of Florida and its governmental entities, municipalities, and businesses have been injured and will continue to be injured in their business by paying more for liquid aluminum sulfate purchased directly from the Defendants and their co-conspirators than they would have paid in the absence of the conspiracy.

131. As a direct result and proximate result of the Defendants' conduct, the State of Florida and its governmental entities, municipalities, and businesses have been harmed and will continue to be harmed by paying supra-competitive prices that they would not have had to pay in the absence of the Defendants' conduct as alleged herein.

132. Defendants' combination, conspiracy, acts, and practices, or the effects thereof, are continuing and will continue and are likely to recur unless permanently restrained and enjoined.

COUNT II

(Violation of the Florida Antitrust Act)

133. The State of Florida incorporates and re-alleges, as though fully set forth herein, each and every allegation set forth in paragraphs 1 through 124 of this Complaint.

134. This is an action against Defendants for their violation of the Florida Antitrust Act, Section 542.18, Florida Statutes, and the State of Florida is entitled to damages and equitable relief resulting from the Defendants' conduct as stated above.

135. The State of Florida also seeks the maximum civil penalties under Section 542.21, Florida Statutes, for each contract, combination, or conspiracy in restraint of trade or commerce.

136. Defendants knowingly—that is, voluntarily and intentionally—entered into a continuing agreement, understanding, and conspiracy to raise, fix, maintain, and/or stabilize the prices charged for liquid aluminum sulfate during the Relevant Period.

137. Defendants and their co-conspirators furthered and effectuated their conspiracy in the following ways, among others:

a. Participating in secret communications, discussions, and meetings in the U.S. and elsewhere to exchange confidential and competitively sensitive information regarding each other’s liquid aluminum sulfate business;

b. Agreeing during those conversations and meetings to “stay away” from each other’s “historical” customers by not pursuing the business of those customers;

c. Tracking bid and pricing histories to determine which accounts were the “historical” customers of each co-conspirator or other supplier of liquid aluminum sulfate, so as to determine whether to pursue a particular contract or to submit an intentionally losing or “throw away” bid or price quotation;

d. Submitting intentionally losing or “throw away” bids or price quotations to each other’s “historic” liquid aluminum sulfate customers or accounts;

e. From time to time, discussing and agreeing during those conversations and meetings to set a price floor to be quoted to a customer by the intended winner to determine the amount of the intended loser’s intentionally losing or “throw away” bid or price quotation;

f. Where a co-conspirator could not withdraw its inadvertently winning bid, bidding to lose on one of its own customers to compensate for the loss of that “historical” customer;

g. Instructing new employees how to determine whether and how to bid on or quote a price for the business of liquid aluminum sulfate customers so as to comport with the agreement not to compete between Defendants and co-conspirators; and

h. Selling liquid aluminum sulfate to customers or accounts at collusive and non-competitive prices in the U.S. and Florida.

138. The State of Florida and its governmental entities, municipalities, and businesses directly purchased liquid aluminum sulfate.

139. The State of Florida and its governmental entities, municipalities, and businesses have been injured and will continue to be injured in their business by paying more for liquid aluminum sulfate purchased directly from the Defendants and their co-conspirators than they would have paid in the absence of the conspiracy.

140. As a direct and proximate result of the Defendants' conduct, the State of Florida and its Florida governmental entities, municipalities, and businesses have been harmed and will continue to be harmed by paying supra-competitive prices for liquid aluminum sulfate that they would not have paid in the in the absence of the Defendants' conduct as alleged herein.

141. The sale of liquid aluminum sulfate in the State of Florida involves trade or commerce within the meaning of the Florida Antitrust Act.

142. Defendants' combination, conspiracy, acts, and practices, or the effects thereof, are continuing and will continue and are likely to recur unless permanently restrained and enjoined.

COUNT III

(Violation of the Florida Deceptive and Unfair Trade Practices Act)

143. The State of Florida incorporates and re-alleges, as though fully set forth herein, each and every allegation set forth in paragraphs 1 through 124 of this Complaint.

144. This is an action against Defendants for their violation of the Florida Deceptive and Unfair Trade Practices Act, Section 501.204, Florida Statutes.

145. The State of Florida seeks damages, pursuant to Section 501.207(1)(c), Florida Statutes, for all direct and indirect purchases of liquid aluminum sulfate by Florida governmental entities, municipalities, and consumers in the State of Florida.

146. The State of Florida also seeks the maximum civil penalties under Sections 501.2075 and 501.2077, Florida Statutes, for each violation of the Florida Deceptive and Unfair Trade Practices Act.

147. The State of Florida also seeks injunctive and equitable relief pursuant to Section 501.207(1)(b), Florida Statutes.

148. The direct and indirect sale of liquid aluminum sulfate in the State of Florida to Plaintiff and its governmental entities, municipalities, and consumers within Florida involves trade or commerce within the meaning of the Florida Deceptive and Unfair Trade Practices Act.

149. Defendants directly and indirectly sold liquid aluminum sulfate to Plaintiff and its governmental entities, municipalities, and consumers within Florida.

150. The combination, conspiracy, acts, and practices alleged herein constitute unfair methods of competition in violation of the Florida Deceptive and Unfair Trade Practices Act, Section 501.204, Florida Statutes.

151. Further, Defendants' actions offend established public policy and are immoral, unethical, oppressive, unscrupulous, or substantially injurious to Florida governmental entities, to municipalities in the State of Florida, Florida businesses, and to consumers in the State of Florida in violation of Section 501.204, Florida Statutes.

152. Defendants' unfair methods of competition, combination, conspiracy, acts, and practices, or the effects thereof, are continuing and will continue and are likely to recur unless permanently restrained and enjoined.

XI. PRAYER FOR RELIEF

153. Accordingly, the State of Florida requests that this Court:

- a. Adjudge and decree that Defendants violated Section 1 of the Sherman Act, 15 U.S.C. §1;
- b. Adjudge and decree that Defendants violated Section 542.18, Florida Statutes;
- c. Adjudge and decree that Defendants violated Section 501.204, Florida Statutes;
- d. Award to the State of Florida treble damages for violations of Section 1 of the Sherman Act, 15 U.S.C. §1;
- e. Award to the State of Florida treble damages for violations of Section 542.18, Florida Statutes;
- f. Award to the State of Florida damages to the maximum amount permitted under Section 501, Florida Statutes;

- g. Award to the State of Florida any other statutory damages, restitution or equitable disgorgement for the benefit of the state and its governmental entities, municipalities, businesses, and consumers, as appropriate;
- h. Award to the State of Florida the maximum civil penalties under Section 542.21, Florida Statutes, for each contract, combination, or conspiracy in restraint of trade or commerce;
- i. Award to the State of Florida the maximum civil penalties under Sections 501.2075 and 501.2077, Florida Statutes, for each violation of the Florida Deceptive and Unfair Trade Practices Act;
- j. Award to the State of Florida its reasonable attorneys' fees and costs, and as may be appropriate under the law, expert witness fees and investigation costs;
- k. Enjoin and restrain, pursuant to federal and state law, Defendants, their affiliates, assignees, subsidiaries, successors, and transferees, and their officers, directors, partners, agents and employees, and all other persons acting or claiming to act on their behalf or in concert with them, from continuing to engage in any anticompetitive conduct and from adopting in the future any practice, plan, program, or device having a similar purpose or effect to the anticompetitive actions set forth above;
- l. Award to the State of Florida any other equitable relief as the Court finds appropriate to redress Defendants' violations of federal or state law to restore competition; and
- m. Order any other relief that this Court deems proper.

XII. DEMAND FOR JURY TRIAL

154. The State of Florida demands a trial by jury of all issues so triable in this case.

Dated: January 19, 2017

STATE OF FLORIDA

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**Pending Transfer to MDL 2687 and Automatic Pro Hac Vice Admission Pursuant to the MDL Master Order (ECF No. 2), Dated February 16, 2016 (Waiving Civil L.R. 101.1(c)(4))*

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