

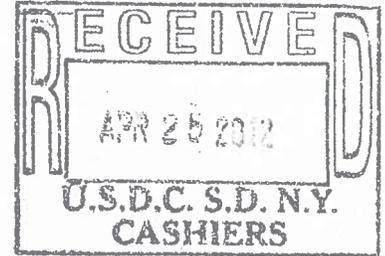
JUDGE FURMAN

12 CV 3243

SACK & SACK, ESQS.

110 East 59th Street, 19th Floor
New York, New York 10022
Tel.: (212) 702-9000
Fax: (212) 702-9702

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



EARL E. BROWN,

Plaintiff,

— against —

AIG INVESTMENTS, a wholly-owned
business segment of American International
Group, Inc., **JOHN P. HORNBOSTEL,**
individually,

Defendants.

ECF CASE

COMPLAINT

JURY TRIAL REQUESTED

Plaintiff, Earl E. Brown ("*Brown*" or "*Plaintiff*") by his attorneys, Sack & Sack, Esqs., file the following Complaint against his former employer, Defendant, AIG Investments, a group within AIG Global Asset Management Holdings, a wholly-owned business segment of American International Group, Inc. ("*AIG*"), and specifically, John P. Hornbostel, a Managing Director and Head of Alternatives Legal within AIG Investments.

Mr. Brown, as and for his complaint, alleges as follows:

NATURE OF THE ACTION

1. Plaintiff complains that his former employer, AIG Investments, a group within AIG Global Asset Management Holdings, a wholly-owned business segment of American International Group, Inc., and specifically, John P. Hornbostel, a Managing Director and Head of Alternatives Legal within AIG Investments, with: unlawful (hostile work environment, verbal abuse and intolerable conditions) discrimination and subsequent retaliation in the terms, conditions, and privileges of his employment in violation of Title VII of the Civil Rights of 1964, 42 U.S.C.A §2000e (“Title VII”) based upon his race, African-American.

2. Plaintiff further complains that Defendants engaged in unlawful discrimination in the terms, conditions, and privileges of his employment in violation of New York State New York State Human Rights Law, Executive Law § 290 et seq. (“NYSHRL”) and the Administrative Code of the City of New York § 8-101 et seq. (“NYCHRL”) based upon his race, African-American.

3. Specifically, Plaintiff charges the Defendants with engaging in discriminatory conduct by creating and fostering an environment wherein management constantly subjected Brown to discriminatory, humiliating, lewd, crude, unprofessional and inappropriate jokes, behavior, statements, innuendo, remarks, gestures, comments, discussions, and overall blatant and suggestive racist terms, primarily by Mr. Hornbostel.

4. Brown further charges that Mr. Hornbostel conspired with several of his direct reports in order to further harass Brown and force Brown to resign.

5. The discrimination Brown suffered emanated, and was directed by Mr. Hornbostel, an employee of AIG for nearly 15 years, who should have known better than to

make the persistent inappropriate, humiliating and discriminatory comments toward Brown during his employment, which ultimately resulted in Brown's termination. Hornbostel should have known better than to conspire with his direct reports in harassing Brown and attempting to force Brown to resign.

6. At all times relevant herein, Defendants' employees, managers, agents and servants, specifically Mr. Hornbostel, acted at the behest of Defendant during the course and scope of their employment with Defendant.

7. AIG's main headquarters is located at 70 Pine Street, New York, NY 10270, in the County, City and State of New York.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1337 and supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1367. In addition, the Court has jurisdiction over Plaintiff's claims under Title VII of the Civil Rights Act of 1964, 42 U.S.C.A. § 2000e.

9. Venue is proper in the Southern District of New York pursuant to 28 U.S.C. § 1391(a). Venue in this matter is properly laid in the District because the violations of the Plaintiff's federal and state civil rights occurred during the course of their employment at branch office locations in this District, because the Defendant does business in this District, and because most of the fact witnesses and evidence are common to or most convenient to this District.

10. Plaintiff served copies of this Complaint upon the New York City Commission on Human Rights and the New York City Corporation Counsel prior to filing it in the United States District Court.

PARTIES

11. Plaintiff is an individual who, at all times relevant to this Complaint, has resided and currently resides at 49 Heritage Crossing, Circleville, New York, 10919.

12. At all times relevant herein, Plaintiff was an “employee” within the meaning of 42 U.S.C.A. §§ 2000e, et seq., § 296 of the NYSHRL and under § 8-102(1) of the NYCHRL and thus, afforded protection against discrimination and retaliation in employment on the basis of his race, African American.

13. At all times relevant to this Complaint, Defendant is a corporation licensed to do business in the State of New York, with its main headquarters located at 70 Pine Street, New York, NY 10270, in the County, City and State of New York.

14. At all times relevant herein, Defendant is an “employer” within the meaning of 42 U.S.C.A. § 2000e-(b), § 292 of the NYSHRL and under § 8-102(5) of the NYCHRL.

15. At all relevant times herein, Defendant Hornbostel was Plaintiff’s supervisor and in a position to discriminate and retaliate against Plaintiff in violation of NYSHRL and NYCHRL.

16. At all relevant times herein, Defendant Hornbostel is an individual who either aids, abets, incites, compels or coerces unlawful discriminatory retaliation pursuant to NYSHRL and NYCHRL.

FACTS COMMON TO ALL COUNTS¹

The claims set forth herein arise from the following set of facts:

Introduction

17. Brown is a 40 year-old African-American male and is protected under the Federal, New York State and New York City anti-discrimination statutes protecting employees.

18. Since 2005, Brown has been a loyal, hardworking employee for Defendant until his unlawful and discriminatory termination on March 16, 2009.

19. In 1994, Brown graduated, with honors, from Northeastern University. In 1998, he obtained a Master of Arts, from the University of Notre Dame.

20. In 2001, Brown earned his Juris Doctors, from the University of Pennsylvania.

21. In 2005, he received a Masters of Business Administration from The Darden Graduate School of Business at the University of Virginia.

22. Brown is admitted to practice law in the State of New York.

Employment History Within Defendant

23. On or about August 16, 2005, Brown began his employment with AIG as a Management Associate. A Management Associate at AIG (“MA”) is a hire who has recently graduated from a graduate program, has exhibited the capacity to become an effective manager, and has expressed an interest in learning the business of a particular group or company within AIG.

1. All directly quoted statements, unless otherwise specified, are the sum and substance of such statements as recalled by Plaintiff.

24. Brown was hired as the first MA in AIG to support a legal group, through an extremely competitive hiring process, which considered over 100 candidates from the top 10 law schools across the country.

25. Brown was offered the position of MA directly from Jeffrey A. Hurd, Esq., the Chief Administrative Officer and Senior Managing Director of AIG, and for a period of time worked directly for him.

26. Since commencing his employment at AIG, Brown progressed at a steady pace; and his informal and formal reviews reflected such.

27. During his first year and a half of employment with AIG, Brown was selected, through a highly competitive process, to participate on an internal consulting group tasked with presenting the Chief Executive Officer of AIG with a business solution aimed at generating additional revenue streams for the Defendant. Brown was also responsible for drafting AIG Investments' Legal Opinion Policy, co-led the creation of AIG Investments' first asset management company (located in India), and asked to co-lead (and soon thereafter, lead) the creation and legal advisory management of AIG Investments' first Long-Short Credit Default Swaps hedge fund.

28. In August 2007, Brown was promoted to the position of Assistant General Counsel. AIG was in no way obligated to promote Brown, but did so based solely on his hard work, ability to work within a team environment, and his willingness to take on tasks outside traditional job descriptions and commonly associated with general counsel staff.

29. The only change Brown experienced as a result of his promotion was that he now reported to the Head of Alternatives Legal, John P. Hornbostel, who, without justification, cause

or any other legitimate business justification, discriminated against Brown solely on the basis of his race.

30. The following is an account of the separate and numerous acts of discrimination that Mr. Hornbostel perpetrated against Brown, once Brown became his direct report.

DIVERSITY COMMENT

31. Mr. Hornbostel expressed a discriminatory animus against African Americans even prior to Brown's promotion to Hornbostel's direct reporting line.

32. As early as Wednesday, October 18, 2006, during a senior management meeting, which Brown was asked to participate in, Mr. Hornbostel was asked by Jeffrey A. Hurd, the Chief Administrative Officer, to keep in consideration the diversity hiring directive established by Win P. Nuger, the Chief Executive Officer of AIG.

33. Mr. Hornbostel sarcastically responded, "**Absolutely! I'll be sure to include a few blacks and broads in the interview process!**"

34. As an African-American, such a racist comment by Mr. Hornbostel, a Caucasian, offended Brown greatly.

35. The managers present at the meeting were too horrified to respond to Mr. Hornbostel's comment.

CONSISTENT AND SYSTEMATIC DISCRIMINATORY BEHAVIOR

36. On or around Monday, August 13, 2007, without reason, notice, justification or cause, Mr. Hornbostel singled Brown out and informed him that he (Brown) would no longer have an office. Instead, Mr. Hornbostel informed Brown that he would be required to sit in a

cubicle on the opposite side of the office, and away from Brown's department, the business professionals that Brown advised.

37. Initially, Mr. Hornbostel stated that the reason for the move was because senior managers needed the office space. However, as weeks turned into months, the purported offices Mr. Hornbostel was reserving remained unoccupied. When Brown continued to voice his complaints, Mr. Hornbostel simply dismissed Brown's requests. Mr. Hornbostel's behavior was particularly unsettling, as Brown was unable to lock up highly sensitive legal documents that he worked on during the day.

38. On many occasions Brown would be forced to carry hard copies of sensitive materials with him during any breaks, so as to protect the documents from being viewed by employees or visitors unrelated to the work product.

39. A few months later, three other Caucasian attorneys, who were similarly situated, were each provided an office; all of whom had not been employed with AIG as long as Brown had been, but who were nevertheless Caucasian.

40. On or around Tuesday, July 31, 2007, Brown received his last "satisfactory/above satisfactory" Performance Review from his direct manager, a direct report of Mr. Hornbostel. Mr. Hornbostel then informed his direct reports that until further notice, Hornbostel would specifically prepare Brown's Performance Review.

41. On or about Friday, September 14, 2007, Mr. Hornbostel walked by Brown's cubicle and tossed his newspaper over Brown's cubicle wall. The newspaper hit Brown on top of his head, and fell on to Brown's computer keyboard. When Brown looked up, Mr. Hornbostel appeared to be smiling. Hornbostel stated that he wanted Brown to read some article, and that he

was unaware that Brown was in the office. Mr. Hornbostel had only recently walked by Brown's cubicle 10 minutes earlier.

42. Additionally, Mr. Hornbostel and Brown were the only two people in the office, which was often the case, as they both arrived to work between 7:15 AM and 7:45 AM. Mr. Hornbostel not only knew that Brown was sitting in the cubicle, but also, the paper that he hit Brown with was the paper he took with him to the restroom. The fact that the newspaper Hornbostel hit Brown with was recently with Hornbostel in the restroom for 10 minutes absolutely disgusted Brown!

43. On or about Thursday, September 20, 2007, after several phone calls to Human Resources, and Ronald E. Holmes, Esq., Mr. Hornbostel's manager, Brown met with both Michelle A. Berman and Ronald E. Holmes to discuss the incident, as well as discuss Brown's impressions of his work experience. At that time, Brown informed them that, "**I am unsure of whether my work experience going forward would yield the success I had experienced in my first two years of employment as I am being singled out on account of my race.**"

44. At that time, Brown was asked if he wanted anyone to speak with Mr. Hornbostel, to which Brown responded "**In order to avoid retaliation, I would rather try my best to manage the situation going forward.**" Brown informed Human Resources that he believed the relationship would utterly deteriorate if Mr. Hornbostel was spoken to by Human Resources. At the time, Brown hoped that he could manage the relationship in a professional manner and that Mr. Hornbostel's discriminatory behavior would subside. Unfortunately, it did not.

45. On or about Tuesday, October 4, 2007, during a meeting between Brown and Mr. Hornbostel, his executive assistant, Mrs. Susan Franz-McSweeney, walked into Mr. Hornbostel's office to provide him with some documents.

46. As Mrs. Franz-McSweeney turned around to exit, Mr. Hornbostel stated, "**And Sue? Next time you need to get documents signed by anyone here in the office, take Earl with you! I'm sure with this brother behind you, he can scare anyone into signing quickly!**"

47. Brown was shocked, horrified and embarrassed by Mr. Hornbostel's humiliating and racist comment. Mrs. Franz-McSweeney and Brown both looked at one another with utter amazement. Brown then turned to Mr. Hornbostel and said, "**I'm not sure how to take that statement, John.**" Mr. Hornbostel then responded, "**Take it as a joke.**" Brown left Hornbostel's office, and tried to calm down.

48. A couple of hours later, Sue stopped by Brown's cubicle, and stated "**If you EVER need me to tell someone about that asshole's racist statement, do not hesitate to ask!**"

49. On or about Monday, December 10, 2007, the group in which Brown worked moved to a larger office space; from 599 Lexington Avenue to 277 Park Avenue. The office space nearly tripled in size.

50. When Brown arrived to the new office building to unpack his boxes, Brown noticed that he was the only attorney not to have an office space—again. Brown immediately asked Mr. Hornbostel why he did not have an office, and Hornbostel informed him that he would

“look into it.” Brown simultaneously contacted Ronald E. Holmes and informed him that he did not have an office. Brown was informed that Mr. Hornbostel would be contacted and asked to provide Brown with an office. Brown was also asked to be a little patient, as the move-in was still ongoing, and office assignments were not completed.

51. A couple of hours later, Mr. Hornbostel summoned Brown into his office. Hornbostel informed Brown that a mistake had been made, but that it would be corrected as soon as possible. Brown thanked Hornbostel for his attention to the issue. Hornbostel then said, **“In the meantime, why don’t you sit out in front of my office, with the other assistants.”**

52. Not surprisingly, Brown was never assigned an office. In fact, from that day in 2007, and for the next 15 months, until Brown’s unlawful termination, Brown would have a cubicle among the paralegals and assistants.

53. Brown was the only African-American lawyer at AIG Investments out of 50 lawyers. Brown was also the only lawyer who was assigned a cubicle and denied an office.

54. On multiple occasions, colleagues would ask why Brown did not have an office, and why Brown’s cubicle was located with the paralegals and assistants. This not only impacted Brown emotionally, but also professionally, as he was effectively prohibited from setting up meetings with any of the business professionals that he advised. Furthermore, the fact that Brown did not have an office immediately conveyed to his peers, co-workers, direct reports in an inferior light that he was not a professional to be taken seriously.

55. In fact, two of Mr. Hornbostel's direct reports, a Mr. Brian Brennan and Mr. Rajesh Swaminathan, readily admitted to Brown that the business professionals explicitly asked them whether he was an attorney or legal assistant.

56. When Brown asked to at least be moved to a cubicle near the business professionals that he advised and served, his request was denied on the grounds that all of the managing directors of the business units would have to agree to allow him to have a cubicle near their offices. No other similarly situated Caucasian person was subjected to this type of process for securing an office, let alone a cubicle!

57. As Brown worked with Mr. Hornbostel, Hornbostel's discriminatory behavior continued to escalate as he became emboldened and more brazen about his blatant racism.

58. On or about Wednesday, January 16, 2008, as Brown walked by Mr. Hornbostel and several of his direct reports, he began to hum the theme music to the black animated series "Fat Albert & the Cosby Kids." Brown would recognize the music anywhere, as he owns DVDs of the entire series.

59. Brown continued to walk by Hornbostel as he stared at Brown, smirking slightly, waiting for Brown's reaction, continually humming the song. It was painfully apparent that Mr. Hornbostel's intent was to refer to Brown as an overweight African-American, as at the time he, weighed over 260 pounds. Brown is only 5'10" and has had a weight problem for some time. Brown's Body Mass Index at the time was nearly 40%, which, by medical standards, meant he was obese.

60. As Brown continued to walk by, he overheard one of Mr. Hornbostel's direct reports ask, "**Hey, John, what music is that?**" Mr. Hornbostel responded, "**Earl Brown**

and the Cosby Kids.” Mr. Hornbostel made these comments over and over in front of Brown’s colleagues, including Kevin Dibble and Allyson Hawks. As Brown heard his Caucasian peers cackling in the background, Brown felt his face become flush with humiliation, fighting back tears like a third-grader suffering at the hands of a bully on his first day at a new school.

61. From that point on, Mr. Hornbostel always hummed the theme song to “Fat Albert & the Cosby Kids” whenever Brown entered his office, an overt and blatant animus of discrimination.

62. On or about Wednesday, February 13, 2008, Mr. Hornbostel sent Brown an email and asked me to call him. At the time, Brown was attending a Practicing Law Institute seminar. Brown called Mr. Hornbostel and informed him of such, to which Hornbostel responded, “**I can give a damn that your ass is attending a seminar! Get to the office immediately!**”

63. Brown immediately left the seminar, and walked back to the office, arriving about 20 minutes after the phone conversation. As Brown entered Mr. Hornbostel’s office, Hornbostel yelled, “**Where the hell have you been?!?!?**” Brown calmly responded that he was attending a legal seminar. Upon realizing how loud he had been, Hornbostel lowered his voice and asked “**Send me a copy of the Key Man provisions chart!**”

64. Brown had recently provided Mr. Hornbostel with the very same document only 48 hours earlier. In addition, Brown had also provided Hornbostel’s assistant with the very same document, a fact of which Hornbostel was well aware of, as he had specifically asked Brown to provide Hornbostel’s assistant with the document. Once Brown provided Hornbostel with the

document, Hornbostel asked Mr. Swaminathan and Mr. Brennan to enter the office, and bring Brown along. Hornbostel then informed Brown that he did not see any need in Brown attending PLI seminars, and forbade Brown from attending any more seminars in the future. Hornbostel's order was in direct contradiction to the dictate Brown had been provided with by the Chief Administrative Officer (Mr. Hornbostel's manager's manager).

65. On Tuesday, April 3, 2008, while attending a continuing legal education presentation that Brown organized with several partners from the law firm of Paul, Weiss, Rifkind, Wharton & Garrison, Mr. Hornbostel entered the conference room and interrupted Brown's presentation by interjecting, "**Make sure you grab a bite to eat before this one does! He's been known to clean out a danish platter!**" Mr. Hornbostel pointed at Brown as he made this statement. Brown was humiliated and nervously smiled, trying to hide his embarrassment, maintain professionalism, and continue to represent AIG in a professional manner. Mr. Hornbostel then walked away, humming the theme to "Fat Albert & the Cosby Kids."

66. On or about Monday, May 5, 2008, Mr. Hornbostel asked Brown into his office and informed Brown that the business people were not pleased with Brown's work. When Brown asked Hornbostel "who" specifically he was referring to, Hornbostel stated that he did not believe it necessary to state exactly "who" was unhappy with Brown's work.

67. Hornbostel therefore concluded that instead of waiting to have Brown's performance review performed during the usual time period, Brown would be singled out, out of 50 Caucasian colleagues to have a mid-year review. Mr. Hornbostel informed Brown that Mr. Rajesh Swaminathan and Mr. Brian Brennan would perform the review. Hornbostel also

informed Brown that he anticipated that the review would not be positive, and that it may set the foundation for Brown's discharge if Brown did not turn things around between that review and Brown's next review.

68. A few weeks later, on or around June 10, 2008, Brown received a negative review. In that review, Mr. Hornbostel said that Brown **"failed to further professional relationships in a manner consistent with the professional needs of the legal group."**

69. Brown vehemently refuted this point by informing Hornbostel that he was involved in several projects with every single business professional within the Direct Investments group, a point which Mr. Brennan and Mr. Swaminathan confirmed, but then attempted to qualify along claims of **"substantive projects."**

70. It was also stated that Brown **"needed improvement"** with respect to Customer Focus, Execution and Flexibility - three areas Brown received an "Exceptional" rating, the highest rating possible – during prior reviews. Brown received this negative comment even though it was admitted that each managing director within each of the business units that Brown attended to stated that, **"Earl's commitment to the businesses was exceptional."**

71. Mr. Hornbostel's response was that he **"did not believe them,"** and that **"they did not understand what was being asked of them with respect to the review."**

72. Finally, Mr. Hornbostel stated that although the review did not explicitly state that Brown was not competent enough to complete the work, based on his "informal" discussions

with Mr. Brennan and Mr. Swaminathan, they agreed that Brown had “**regressed**” with respect to Brown’s industry knowledge, and Brown’s ability to complete work assignments.

73. Mr. Hornbostel stated that he was “**unwilling**” to commit that statement to writing, but Brown’s overall poor review reflected Hornbostel’s belief that Brown could not complete the work. When Brown challenged Hornbostel on this point, stating that Brown only received praise from his customers with regard to work deliverables, and that they continued to ask me to complete critical deliverables, Mr. Hornbostel shockingly responded, “**Get them to put it in writing!**” When Brown replied that he would ask, but that he did not believe Hornbostel’s request to be consistent with employee review protocol, Hornbostel retorted, “**This meeting is over and any further issues you may have should be taken up with Human Resources.**”

74. Brown formally disagreed with the review, and asked to meet with Human Resources. It was blatantly apparent that Mr. Hornbostel was systematically discriminating against Brown on the basis of his race and taking affirmative steps to eliminate Brown’s position without notice, reason, justification or cause, but based upon a racial animus.

75. On or about Tuesday, June 10, 2008, Brown met with Ms. Michelle Berman, a representative from Human Resources, along with Mr. Hornbostel, Mr. Swaminathan and Mr. Brennan regarding Brown’s negative performance review.

76. Among the several points made regarding Brown’s performance was that Ms. Allyson Hawkes, an attorney and direct report of Mr. Hornbostel, had asked Brown to complete a project, but Brown failed to complete it. When Brown asked about the details of the project (as

Brown was completely unaware of what they were referring to), Mr. Hornbostel interjected **“Well, I think Rajesh meant to say that Allyson was supposed to ask you to complete the project.”** Brown confirmed with Mr. Hornbostel that he, in fact, had not been assigned the referenced project, and Hornbostel said, **“Yes.”**

77. On or about Monday, June 16, 2008, Mr. Hornbostel asked Brown into his office. As Brown entered Hornbostel said, **“Hey! Hey! Hey! It’s Fat Albert! Do you remember that cartoon!”** Embarrassed, Brown responded **“Yes.”**

78. Hornbostel then asked Brown to speak with Mr. Brian Gredder about some fund reviews that Hornbostel needed completed. Hornbostel also informed Brown that he felt it best that they not wait to take stock of how Brown was progressing since Brown’s most recent performance review.

79. Hornbostel stated that he has asked Mr. Swaminathan and Mr. Gredder to perform another “mini-performance review” over the next 6-week period. Brown was the only employee to be singled out for such an impromptu performance review. Not coincidentally, Brown was also the only African American lawyer, and on his way out.

80. Hornbostel then asked Brown to speak with all of his direct reports and establish deliverable dates on at least two deliverables each. Brown left his office and immediately spoke with all of his direct reports regarding deliverables. Brown received several deliverables from each of Mr. Hornbostel’s direct reports, and turned around nearly all of them within 48 hours of receiving them.

81. On or about Wednesday, June 18, 2008, Brown met with Mr. Brian Gredder, one of Mr. Hornbostel's direct reports, regarding a fund review that Brown completed for him. Mr. Gredder asked Brown to come back to his office that Thursday, June 19, 2008, to discuss.

82. Prior to returning to Mr. Gredder's office, Brown received an email from Mr. Gredder stating that the fund review was "**excellent, and very beneficial.**"

83. When Brown finally did meet with Mr. Gredder, he commented that Brown was clearly knowledgeable of the fund and that he would like Brown to handle all of the negotiations regarding the fund documents. Mr. Gredder had very minor, stylistic comments about the review, but nothing substantive. Mr. Gredder would subsequently provide Brown with several more projects for him to handle without his assistance.

BROWN'S FINAL WEEKS WITH DEFENDANT

84. On or about Thursday, July 17, 2008, Elliot P. Hayes, a former managing director with Defendant, informed Brown that he "**is aware of Mr. Hornbostel's intent to terminate your employment, or force you to resign.**" Hayes further informed Brown that he is of the belief that Mr. Hornbostel has reached out to several of his direct reports to "assist" in Brown's termination in some form or fashion.

85. Hayes encouraged Brown to speak with Jonathan H. Stearns, another managing director, regarding what he may have heard, just to confirm. Brown subsequently spoke with a second managing director, Jeff Kelly, and in no uncertain terms, he confirmed that Mr.

Hornbostel spoke with him regarding the preparation of a negative review of Brown's most recent work for purposes of "**setting me up**" for termination.

86. On Thursday, August 14, 2008, Brown met with Ms. Michelle Berman, a Vice President of Defendant in the Human Resources group, regarding the untenable hostile work environment that Mr. Hornbostel had created, solely based upon Brown's race. Ms. Berman informed Brown that Mr. Hornbostel was not happy with him, and if she had to guess, he desired that Brown leave AIG.

87. On September 3, 2008, Brown sent the following email to Angela Mauro, Employee Relations Director, informing her of the ever-increasing hostile work environment and disparate treatment he was suffering:

From: Brown, Earl
Sent: Wednesday, September 03, 2008 11:26 AM
To: Mauro, Angela
Cc: Smith, Mark D.@HR
Subject: A time to speak

Good morning Angela,

Mark Smith suggested that I contact you. I am an attorney for AIG Investments. I've been employed by AIG/AIGGIC for a little over three years now, two of which have been spent with the Alternative Investments legal group, lead by John Hornbostel. Since officially transferring to John's group, my experience has been marked by antagonistic, condescending, and at times disparate treatment. It is my strong belief that it has been John's every intent to discourage my participation in the group, malign my character among the very individuals I was asked to work for and with, and generally effort to "prepare an argument for my termination." His desire, in my opinion, has manifest in treatment toward me that is absolutely capricious, unprofessional, conspiratorial and very likely illegal. And on August 14 of this year, after speaking with Michelle Berman of AIG Investments HR, my experience here with AIG Investments reached a point of no return when I was informed--in no uncertain terms--that I should "speak with my wife" regarding an offer to leave the company within 30 days (with the company accommodating any interview schedule I may establish during that 30 day period). I subsequently did just that, and provided Michelle (after her follow-up request via email

sent August 25th with respect to my response to our conversation and her offer) with a severance package proposal, something we discussed during our August 14th meeting.

It is apparent, based on months of treatment by John, Rajesh Swaminathan, and to a lesser extent, Brian Brennan, that I am being forced out of the group. I encourage you to seek a briefing on my situation from Michelle and Mark, as I would like to discuss with you how best to resolve a situation wherein I am no longer able to even communicate with most of the legal team, let alone work for and with them. I also believe it fair to inform you that, although I have no desire to usurp any process or chain of command that I am required to abide by, I am desperate to move my situation along toward some form of closure, and respectfully, will do so in the event the company is unable or unwilling to effort toward a resolution. Therefore, I hope to arrange a meeting or phone conversation with you, and whomever else you believe should participate, over the next day. My every desire is to discreetly resolve this situation in a manner that will hopefully allow me, and the Alternatives legal group, to move along with our respective business; my ultimate desire is to avoid the type of treatment I witnessed a former colleague experience prior to her termination. Is it possible for us to speak today, or sometime early Thursday morning? As I'm sure you can appreciate, I have no desire to be a disruption to the company during these trying economic times. Therefore, the sooner we are able to resolve this situation in a manner that does not leave me or the company disadvantaged, the better. Thank you for your time, and I hope to hear from you very soon.

Earl E. Brown
Assistant General Counsel
AIG Investments
Alternative Investments Legal Group
277 Park Avenue
42nd Floor
New York, NY 10172
(646) 857-8600 - Main
(646) 857-8637 - Direct
(917) 331-1417 - Mobile
(646) 857-8840 - Fax

88. Despite Brown's complaints to Ms. Berman, no action or investigation was commenced in response to Mr. Hornbostel's discriminatory actions.

89. On or about Friday, September 5, 2008, Brown contacted Mrs. Anastasia Kelly, General Counsel for American International Group, Inc., and Christina Mallus, Ms. Kelly's

Director of Corporate-Legal Human Resources, and informed her of Mr. Hornbostel's behavior toward Brown.

90. Brown's emails and subsequent phone calls were never answered by either Ms. Kelly or Ms. Mallus.

91. On or about Tuesday, September 9, 2008, while discussing pro bono issues over the phone with the Chairman of the non-profit that Defendant actively and directly participated in placing Brown on its board of directors, Mr. Hornbostel tapped him on his shoulder and stated **"Is that AIG work?"** Brown responded, **"Yes. It is the non-profit that AIG placed me with—Youth, I.N.C.?"**

92. Mr. Hornbostel then replied, **"Wrap it up NOW!"** Mr. Hornbostel made his statement so loudly, that the chairman of the non-profit board heard him, as well as the paralegals and assistants sitting in their cubicles nearby. His behavior was a result of the email Brown sent to Ms. Kelly describing his discriminatory behavior.

93. On or about Friday, September 12, 2008, Mr. Hornbostel demanded that Brown no longer complete any work for the non-profit that Brown volunteered for during his time with Defendant.

94. When Brown responded that Ms. Kelly has specifically allowed attorneys to do authorized pro bono work during office hours, within reason, he added, **"You heard me!"**

95. Two weeks later, after returning from vacation, Brown informed Mr. Hornbostel that he was having a very difficult time completing his work, as he was suffering through severe back pain. Brown informed him that he would be contacting a physician to further investigate the source of his back pain, and that he would need to take a couple of sick days.

96. Brown also reported this to Mr. Brennan, Mr. Swaminathan, and Ms. Michelle Berman. Based on Brown's visits with the physician, it was determined that he was suffering from two pinched nerves in his lower back. The severity of the pain and discomfort led him to apply for disability. From October 5, 2008 until March 16, 2009, Brown was on approved disability leave.

97. On the morning of March 16, 2009, the day Brown returned to work, Mr. Brennan and a representative from Human Resources informed Brown that he was being laid off due to the fact that his **"position had been cut."**

98. Brown was the only lawyer to "be cut" out of 50 non-black lawyers.

99. Defendant essentially "laid-in-wait" until Brown returned from disability before firing him in retaliation of his lawful complaint concerning their racial discriminatory actions.

100. Accordingly, on March 16, 2009, without reason, justification or cause, and in retaliation to his lawful complaints concerning being treated differently in respect of the terms, conditions and privileges of his employment as compared to his similarly situated co-workers who are held to a lower standard, Brown was terminated from his employment with Defendant after 4 years of service.

101. Defendant made an adverse employment decision against Brown based upon discriminatory animus, as described herein.

LEGAL CLAIMS

AS AND FOR A FIRST CAUSE OF ACTION

**RACE DISCRIMINATION IN VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964;
42 U.S.C.A. § 2000E**

102. Plaintiff repeats, realleges, and incorporates by reference each and every allegation previously made herein as if the same were more fully set forth at length herein.

103. Defendant's discriminatory behavior and then retaliatory termination of Plaintiff's employment were made as a direct result of Plaintiff's race, African American.

104. Defendants have undertaken these discriminatory practices willfully or with reckless disregard for the Plaintiff's rights protected under Title VII.

105. These employment practices violate § 703 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e-2.

106. As a result of Defendant's actions, Plaintiff is unable to return to comparable employment.

107. The aforementioned acts of Defendant constitutes unlawful discrimination against Plaintiff in the terms, conditions and privileges of his employment because of his race and in retaliation against him in violation of the provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C.A. § 2000e.

108. As a proximate result of Defendant's aforementioned racial discrimination against Plaintiff, Plaintiff has and will continue to suffer substantial losses, including the loss of past and future earnings, bonuses, deferred compensation and other employment benefits.

109. As a further proximate result of Defendant's actions, Plaintiff has and will continue to suffer irreparable and significant damage to his personal and professional good name and reputation.

110. As a further proximate result of Defendant's actions taken because of Plaintiff's race, Plaintiff has and will continue to suffer severe and lasting embarrassment, humiliation and anguish and other incidental and consequential damages and expenses.

111. As a result of the foregoing, Plaintiff is entitled to recover from Defendant, jointly and severally, an amount equal to the value of all compensation to be earned by Plaintiff had his employment not been interfered with, including all to be earned salary and bonuses, benefit payments, profit sharing, costs, attorney's fees and prejudgment interest at no less than 9%.

112. As a result of the foregoing acts, Plaintiff is entitled to recover an amount to be determined at trial in compensatory damages from Defendant.

113. In committing the acts alleged herein, Defendant acted in an outrageous and malicious manner with intent, oppression, gross negligence, malice, wanton disregard and indifference for Plaintiff's protected civil rights, as part of a continuing pattern of conduct, and Plaintiff is entitled to punitive damages in an amount to be determined at trial to adequately punish Defendant, jointly and severally, and to deter Defendant from continuing and repeating such conduct in the future.

AS AND FOR A SECOND CAUSE OF ACTION

**DISCRIMINATION ON THE BASIS OF RACE UNDER
NEW YORK STATE HUMAN RIGHTS LAW §296(1)(A)**

114. Plaintiff repeats, realleges, and incorporates by reference each and every allegation previously made herein as if the same were more fully set forth at length herein.

115. Defendant's discriminatory behavior and then retaliatory termination of Plaintiff's employment were made as a direct result of Plaintiff's race, African American, and show an animus of racial bias.

116. As a result of Defendant's actions, Plaintiff is unable to return to comparable employment.

117. The aforementioned acts of Defendant constitutes unlawful discrimination against Plaintiff in the terms, conditions and privileges of his employment because of his race and in retaliation against his in violation of the provisions of the NYSHRL § 296(1)(a).

118. As a proximate result of Defendant's aforementioned race discrimination against Plaintiff, Plaintiff has and will continue to suffer substantial losses, including the loss of past and future earnings, bonuses, deferred compensation and other employment benefits.

119. As a further proximate result of Defendant's actions, Plaintiff has and will continue to suffer irreparable and significant damage to his personal and professional good name and reputation.

120. As a further proximate result of Defendant's actions taken because of Plaintiff's race, Plaintiff has and will continue to suffer severe and lasting embarrassment, humiliation and anguish and other incidental and consequential damages and expenses.

121. As a result of the foregoing, Plaintiff is entitled to recover from Defendant an amount equal to the value of all compensation to be earned by Plaintiff had his employment not been interfered with, including all to be earned salary and bonuses, benefit payments, profit sharing, costs, attorney's fees and prejudgment interest at no less than 9%.

122. As a result of the foregoing acts, Plaintiff is entitled to recover an amount to be determined at trial in compensatory damages from Defendant.

123. In committing the acts alleged herein, Defendant acted in an outrageous and malicious manner with intent, oppression, gross negligence, malice, wanton disregard and indifference for Plaintiff's protected civil rights, as part of a continuing pattern of conduct, and

Plaintiff is entitled to punitive damages in an amount to be determined at trial to adequately punish Defendant and to deter Defendant from continuing and repeating such conduct in the future.

AS AND FOR A THIRD CAUSE OF ACTION

**DISCRIMINATION ON THE BASIS OF RACE UNDER
NEW YORK CITY HUMAN RIGHTS LAW § 8-107**

124. Plaintiff repeats, realleges, and incorporates by reference each and every allegation previously made herein as if the same were more fully set forth at length herein.

125. Defendant's discriminatory behavior and then retaliatory termination of Plaintiff's employment were made as a direct result of Plaintiff's race, African American, and show an animus of race bias.

126. Defendant's animus towards Plaintiff's race, African American, is revealed in instances where similarly situated Caucasian employees were treated differently than Plaintiff in respect to of their terms, conditions, and privileges of employment.

127. As a result of Defendant's actions, Plaintiff is unable to return to comparable employment.

128. The aforementioned acts of Defendant constitutes unlawful discrimination against Plaintiff in the terms, conditions and privileges of his employment because of his race and in retaliation against him in violation of the provisions of the NYCHRL § 8-107.

129. As a proximate result of Defendant's aforementioned race discrimination against Plaintiff, Plaintiff has and will continue to suffer substantial losses, including the loss of past and future earnings, bonuses, deferred compensation and other employment benefits.

130. As a further proximate result of Defendant's actions, Plaintiff has and will continue to suffer irreparable and significant damage to his personal and professional good name and reputation.

131. As a further proximate result of Defendant's actions taken because of Plaintiff's race, Plaintiff has and will continue to suffer severe and lasting embarrassment, humiliation and anguish and other incidental and consequential damages and expenses.

132. As a result of the foregoing, Plaintiff is entitled to recover from Defendant, jointly and severally, an amount equal to the value of all compensation to be earned by Plaintiff had his employment not been interfered with, including all to be earned salary and bonuses, benefit payments, profit sharing, costs, attorney's fees and prejudgment interest at no less than 9%.

133. As a result of the foregoing acts, Plaintiff is entitled to recover an amount to be determined at trial in compensatory damages from Defendant.

134. In committing the acts alleged herein, Defendant acted in an outrageous and malicious manner with intent, oppression, gross negligence, malice, wanton disregard and indifference for Plaintiff's protected civil rights, as part of a continuing pattern of conduct, and Plaintiff is entitled to punitive damages in an amount to be determined at trial to adequately punish Defendant and to deter Defendant from continuing and repeating such conduct in the future.

AS AND FOR A FOURTH CAUSE OF ACTION

**RETALIATION IN VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964;
42 U.S.C.A. § 2000E**

135. Plaintiff repeats, realleges, and incorporates by reference each and every allegation previously made herein as if the same were more fully set forth at length herein.

136. Based upon the aforementioned facts, Plaintiff had reasonable belief that Defendants were engaged in unlawful conduct under Title VII of the Civil Rights Act of 1964, 42 U.S.C.A. § 2000e.

137. Plaintiff acted in opposition to such unlawful conduct by making good faith claims and/or complaints of race discrimination to Defendant and appropriate authorities, including the EEOC.

138. Defendant had actual knowledge of Plaintiff's activities in respect of making good faith claims and/or complaints of race discrimination to Defendants and appropriate authorities, including the EEOC.

139. As a proximate result of Plaintiff's activities in respect of making good faith claims and/or complaints of race discrimination to Defendant and appropriate authorities, including the EEOC, Defendant engaged in adverse treatment of Plaintiff, including, inter alia, terminating his employment.

140. Plaintiff has been unable, despite reasonable efforts, to find comparable employment.

141. The aforementioned acts of Defendant constitute unlawful retaliation against Plaintiff in violation of the provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C.A. § 2000e.

142. As a proximate result of Defendant's aforementioned retaliation against Plaintiff, Plaintiff has and will continue to suffer substantial losses, including the loss of past and future earnings, bonuses, deferred compensation and other employment benefits.

143. As a further proximate result of Defendant's actions, Plaintiff has and will continue to suffer irreparable and significant damage to his personal and professional good name and reputation.

144. As a further proximate result of Defendant's actions taken because of Plaintiff's race, Plaintiff has and will continue to suffer severe and lasting embarrassment, humiliation and anguish and other incidental and consequential damages and expenses.

145. As a result of the foregoing, Plaintiff is entitled to recover from Defendant, jointly and severally, an amount equal to the value of all compensation to be earned by Plaintiff had his employment not been interfered with, including all to be earned salary and bonuses, benefit payments, profit sharing, costs, attorney's fees and prejudgment interest at no less than 9%.

146. As a result of the foregoing acts, Plaintiff is entitled to recover an amount to be determined at trial in compensatory damages from Defendant.

147. In committing the acts alleged herein, Defendant acted in an outrageous and malicious manner with intent, oppression, gross negligence, malice, wanton disregard and indifference for Plaintiff's protected civil rights, as part of a continuing pattern of conduct, and Plaintiff is entitled to punitive damages in an amount to be determined at trial to adequately punish Defendant and to deter Defendant from continuing and repeating such conduct in the future.

AS AND FOR AN FIFTH CAUSE OF ACTION

RETALIATION IN VIOLATION OF NEW YORK STATE HUMAN RIGHTS LAW §296(1)(A)

148. Plaintiff repeats, realleges, and incorporates by reference each and every allegation previously made herein as if the same were more fully set forth at length herein.

149. Based upon the aforementioned facts, Plaintiff had reasonable belief that Defendant were engaged in unlawful conduct under NYSHRL § 296 (1) (a).

150. Plaintiff acted in opposition to such unlawful conduct by making good faith claims and/or complaints of race discrimination to Defendant and appropriate authorities, including the EEOC.

151. Defendant had actual knowledge of Plaintiff's activities in respect of making good faith claims and/or complaints of race discrimination to Defendant and appropriate authorities, including the EEOC.

152. As a proximate result of Plaintiff's activities in respect of making good faith claims and/or complaints of race discrimination to Defendant and appropriate authorities, including the EEOC, Defendant engaged in adverse treatment of Plaintiff, including, inter alia, terminating his employment.

153. As a result of Defendants' actions, Plaintiff is unable to return to comparable employment.

154. The aforementioned acts of Defendant constitute unlawful retaliation against Plaintiff in violation of the provisions of NYSHRL § 296 (1) (a).

155. As a proximate result of Defendant's aforementioned retaliation against Plaintiff, Plaintiff has and will continue to suffer substantial losses, including the loss of past and future earnings, bonuses, deferred compensation and other employment benefits.

156. As a further proximate result of Defendant's actions, Plaintiff has and will continue to suffer irreparable and significant damage to his personal and professional good name and reputation.

157. As a further proximate result of Defendant's actions taken because of Plaintiff's race, Plaintiff has and will continue to suffer severe and lasting embarrassment, humiliation and anguish and other incidental and consequential damages and expenses.

158. As a result of the foregoing, Plaintiff is entitled to recover from Defendant, jointly and severally, an amount equal to the value of all compensation to be earned by Plaintiff had his employment not been interfered with, including all to be earned salary and bonuses, benefit payments, profit sharing, costs, attorney's fees and prejudgment interest at no less than 9%.

159. As a result of the foregoing acts, Plaintiff is entitled to recover an amount to be determined at trial in compensatory damages from Defendant, jointly and severally, in addition to all other amounts sought herein.

160. In committing the acts alleged herein, Defendant acted in an outrageous and malicious manner with intent, oppression, gross negligence, malice, wanton disregard and indifference for Plaintiff's protected civil rights, as part of a continuing pattern of conduct, and Plaintiff is entitled to punitive damages in an amount to be determined at trial to adequately punish Defendant, jointly and severally, and to deter Defendant from continuing and repeating such conduct in the future.

AS AND FOR A SIXTH CAUSE OF ACTION

RETALIATION IN VIOLATION OF NEW YORK CITY HUMAN RIGHTS LAW § 8-107

161. Plaintiff repeats, realleges, and incorporates by reference each and every allegation previously made herein as if the same were more fully set forth at length herein.

162. Based upon the aforementioned facts, Plaintiff had reasonable belief that Defendant were engaged in unlawful conduct under NYCHRL § 8-107.

163. Plaintiff acted in opposition to such unlawful conduct by making good faith claims and/or complaints of race discrimination to Defendant and appropriate authorities, including the EEOC.

164. Defendant had actual knowledge of Plaintiff's activities in respect of making good faith claims and/or complaints race discrimination to Defendants and appropriate authorities, including the EEOC.

165. As a proximate result of Plaintiff's activities in respect of making good faith claims and/or complaints of race discrimination to Defendant and appropriate authorities, including the EEOC, Defendant engaged in adverse treatment of Plaintiff, including, inter alia, terminating his employment.

166. As a result of Defendants' actions, Plaintiff is unable to return to comparable employment.

167. The aforementioned acts of Defendant constitute unlawful retaliation against Plaintiff in violation of the provisions of NYCHRL § 8-107.

168. As a proximate result of Defendant's aforementioned retaliation against Plaintiff, Plaintiff has and will continue to suffer substantial losses, including the loss of past and future earnings, bonuses, deferred compensation and other employment benefits.

169. As a further proximate result of Defendant's actions, Plaintiff has and will continue to suffer irreparable and significant damage to his personal and professional good name and reputation.

170. As a further proximate result of Defendant's actions taken because of Plaintiff's race, Plaintiff has and will continue to suffer severe and lasting embarrassment, humiliation and anguish and other incidental and consequential damages and expenses.

171. As a result of the foregoing, Plaintiff is entitled to recover from Defendant, jointly and severally, an amount equal to the value of all compensation to be earned by Plaintiff had his employment not been interfered with, including all to be earned salary and bonuses, benefit payments, profit sharing, costs, attorney's fees and prejudgment interest at no less than 9%.

172. As a result of the foregoing acts, Plaintiff is entitled to recover an amount to be determined at trial in compensatory damages from Defendant.

173. In committing the acts alleged herein, Defendant acted in an outrageous and malicious manner with intent, oppression, gross negligence, malice, wanton disregard and indifference for Plaintiff's protected civil rights, as part of a continuing pattern of conduct, and Plaintiff is entitled to punitive damages in an amount to be determined at trial to adequately punish Defendant, jointly and severally, and to deter Defendant from continuing and repeating such conduct in the future.

AS AND FOR A SEVENTH CAUSE OF ACTION

AGAINST DEFENDANT HORNPOSTEL (NYSHRL - AIDING AND ABETTING)

174. Plaintiff incorporates by reference and realleges each and every allegation as set forth above as if fully set forth herein.

175. As a result of the aforementioned actions, Defendant Hornbostel has discriminated against Plaintiff on account of his race with respect to the terms, conditions and privileges of his employment in violation of New York Executive Law § 290 et seq.

176. As a result of the aforementioned actions, Defendant Hornbostel has violated the New York Executive Law §290 et seq. by aiding, abetting, inciting and coercing the unlawful discrimination outlined herein.

177. As a result of Defendant Hornbostel discrimination (and aiding, abetting and inciting discrimination) against his, Plaintiff has suffered damages, including, without limitation, deprivation of income and benefits, emotional pain, suffering, inconvenience, damage to reputation and career, mental anguish and humiliation.

AS AND FOR A EIGHTH CAUSE OF ACTION

AGAINST DEFENDANT HORNBOSTEL (NYCHRL - AIDING AND ABETTING)

178. Plaintiff incorporates by reference and realleges each and every allegation as set forth above as if fully set forth herein.

179. As a result of the aforementioned actions, Defendant Hornbostel has discriminated against Plaintiff on account of his race with respect to the terms, conditions and privileges of his employment in violation of New York City Administrative Code § 8-101 et seq.

180. As a result of the aforementioned actions, Defendant Hornbostel has violated the New York City Administrative Code § 8-101 et seq. by aiding, abetting, inciting and coercing the unlawful discrimination outlined herein.

181. As a result of Defendant Hornbostel's discrimination (and aiding, abetting and inciting discrimination) against him, Plaintiff has suffered damages, including, without

limitation, deprivation of income and benefits, emotional pain, suffering, inconvenience, damage to reputation and career, mental anguish and humiliation.

ATTORNEY'S FEES AND COSTS

182. Attorney's fees and costs are warranted in this matter as the undersigned, on behalf of Plaintiff, have in good faith, attempted to negotiate a reasonable resolution with Defendant without having to refer this matter to this forum for adjudication, determination and final resolution on the merits.

PUNITIVE DAMAGES – BAD FAITH

183. It is presumed that parties to contracts undertake their respective obligations in good faith, with intent to deal fairly. In light of Defendant's obvious and blatant bad faith, wrongdoing and breach of other duties, *punitive damages* should be assessed against Defendant so that they be deterred from attempting such harmful employment practices in the future.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff requests that this Court order the following relief in favor of Plaintiff:

- I. An award of Plaintiff's actual damages in respect of loss of wages, promotional opportunities, including an award of front pay compensating Plaintiff for loss of future salary and benefits had his employment not been interfered with, including all to be earned salary and bonuses, benefit payments, profit sharing, costs, attorney's fees and prejudgment interest at no less than 9%;
- II. An award of compensatory damages in an amount to be determined at trial;
- III. An award of punitive damages in an amount to be determined at trial;
- IV. An order enjoining Defendants from engaging in the wrongful practices alleged herein;
- V. An award of prejudgment interest, costs and attorney's fees; and
- VI. Such other and further relief that the Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

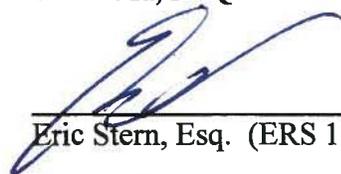
Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all questions of fact raised by the complaint.

Dated: New York, New York
April 20, 2012

Respectfully submitted,

SACK & SACK, ESQS.

By:



Eric Stern, Esq. (ERS 1918)

Attorneys for Plaintiff

EARL BROWN

110 East 59th Street, 19th Floor

New York, New York 10022

Tel.: (212) 702-9000

Fax: (212) 702-9702

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Civ #: 12 CV _____

EARL E. BROWN,

Plaintiff,

- against -

AIG INVESTMENTS, a wholly-owned business segment of American International Group, Inc., **JOHN P. HORNBOSTEL**, individually,

Defendants.

COMPLAINT

SACK & SACK, ESQS.

ATTORNEYS FOR PLAINTIFF

110 East 59th Street, 19th Floor
New York, New York 10022
Tel.: (212) 702-9000
Fax: (212) 702-9702