

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

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FOURTH JUDICIAL DISTRICT

CASE TYPE: CONTRACT

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LESA BENACQUISTO and DANIEL)  
BENACQUISTO, on behalf of.  
themselves and all others similarly:  
situatedl

Case No.

Plaintiffs,

v.

JURY REQUESTED

IDS LIFE INSURANCE COMPANY and  
AMERICAN EXPRESS FINANCIAL  
CORPORATION,

Defendants.

X

**SUMMONS**

THE STATE OF MINNESOTA TO THE ABOVE-NAMED DEFENDANTS:

You are hereby summoned and required to answer the Complaint of the plaintiffs in the above-entitled proceeding, which Complaint is attached and herewith served upon you personally, and to serve a copy of your answer to said Complaint on plaintiffs' attorneys, within TWENTY (20) days after service of this Summons upon you, exclusive of the day of service, and if you fail to answer the Complaint within the time aforesaid,

judgment by default will be taken against you for the relief demanded in the Complaint.

Dated: *p-~/rb*

C~~

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**CLASS ACTION COMPLAINT**

Plaintiffs bring this action in their individual capacities and On behalf of the class of persons defined below, and for their complaint allege, pursuant to their investigation and upon knowledge as to themselves and their own acts and otherwise upon information and belief, as follows:

**INTRODUCTION AND OVERVIEW**

1. This action seeks to recover damages suffered as the result of fraudulent sales practices employed in the sale of life insurance policies issued by IDS Life Insurance Company ("IDS").

2. IDS is wholly owned by American Express Financial Corporation ("AEFC") (formerly known as "IDS Financial Corporation") . AEFC "financial advisors" are trained and encouraged to contact current IDS cash value life insurance policyholders. Under the guise of reviewing the policyholder's financial situation, the "financial advisor" also encourages the policyholder to replace his or her current IDS cash value life insurance policy with a new cash value IDS life insurance policy.

3. These "financial advisors" are little more than sales people who have received training from IDS and AEFC in the sale of the defendants' products and services. In the course of their training, these agents of the defendants were trained to review the insurance coverage of current IDS policyholders to determine the cash values the policyholders may have accumulated in their policies. When an agent found a policy which had accumulated cash value, the agent would contact the current policyholder to perform a "financial review". During the course of this financial review, the agent would convince the policyholder that his or her current life insurance could be replaced by a new policy that offered more benefits. Frequently, policyholders were told that they could roll-over the cash value from the current policy into the new policy so that they could

obtain this "new and improved" coverage with little or no increase in premium payments.

4. This practice is called "churning." Churning refers to the practice of persuading existing policyholders to replace or borrow against their existing policies in order to purchase new policies, without informing the policyholders that by doing so they would lose substantial cash values, pay new and significant commission charges, and, in many instances, that the new policies would be financed with unauthorized loans taken against the cash values in their existing policies.

5. As part of the churning scheme, IDS and AEFC encouraged and trained its agents to replace the insurance policies of existing IDS policyholders whose policies had cash value with new high commission policies. IDS provided to its agents information and reports on existing policyholders whose policies had cash value which could be used to purchase new policies underwritten by IDS. The forms created and distributed by IDS and AEFC were designed so that policyholders could be churned with a minimal amount of effort by their agents. Unlike some insurance companies that require an agent to fill out a lengthy questionnaire concerning the policy replacement, and/or discuss the negative consequences of replacing existing policies

with the policyholders, IDS and AEFC encouraged their agents to prospect for sales among current IDS policyholders, and made the administrative process of policy replacement as simple as checking off a single box on a simple form.

6. IDS and AEFC encouraged their sales agents to engage in these acts with the payment of hefty commissions. Commissions on newly issued policies are much larger than commissions from existing annual premium payments. IDS and AEFC also benefitted from this practice in that they were able to gain greater premium income from sales of new policies as well as collect large surrender charges and other fees the policyholder was assessed when churning occurred.

7. Plaintiffs and the class that they seek to represent were victims of the improper activities engaged in by IDS and AEFC. Plaintiffs were subject to a financial planning session in which they were convinced that it was in their best interests to replace their existing IDS insurance policy with a new and improved version that would offer greater benefits. Plaintiffs were not told of the commissions, fees and charges that would strip more than 50% of the cash value from their current policy. Nor were plaintiffs informed that it was not in their best interest, but was in defendants' interest, to replace

their existing IDS policy with a new IDS policy.

**JURISDICTION AND VENUE**

8. This Court has jurisdiction over the causes of action asserted herein and over the parties to this action. Plaintiffs assert claims under the common law, the consumer protection statutes of Minnesota and the other relevant states, and other relevant statutes. Defendants are headquartered in this state. Many of the forms, sales materials and training materials utilized and employed by defendants' agents in the wrongful replacement of DSDS insurance policies were developed and distributed from these offices. Plaintiffs have voluntarily consented to the jurisdiction of this Court.

9. Under Minn. Stat. § 542.09 venue in Hennepin County is proper in that defendant IDS maintains its administrative office and does business within Hennepin County.

**PARTIES**

10. Plaintiffs Lesa Benacquisto and Daniel Benacquisto are citizens and residents of the state of Pennsylvania. As furthered described below, during the Class Period the Benacquistos were fraudulently induced and deceived into replacing their current IDS cash value life insurance policy with



another IDS cash value life insurance policy and were harmed thereby.

11. Defendant AEFC Financial Corporation is a major financial planning organization which uses "Financial Advisors" to market and sell the products and services of its wholly owned subsidiaries, including IDS. AEFC maintains its corporate headquarters in Minneapolis, Minnesota.

12. Defendant IDS is a stock life insurance company which maintains its administrative headquarters at IDS Tower 10 in Minneapolis, Minnesota. IDS is licensed to sell its policies in 49 states and the District of Columbia. A wholly owned subsidiary, IDS Life Insurance Company of New York, provides insurance products in New York State. IDS is a wholly owned subsidiary of AEFC. The primary purpose and role of IDS is to provide insurance contracts to the financial planning client base of AEFC.

**CLASS ACTION ALLEGATIONS**

13. Plaintiffs bring this action on behalf of themselves and on behalf of a class of all persons or entities who replaced their current IDS cash value life insurance policies with new cash value life insurance policies from and after January 1, 1985 (the "Class" and "Class Period", respectively).

14. Membership in the class is so numerous as to make it impractical to bring all class members before the Court. The exact number of class members is unknown, but can be determined from the records maintained by IDS. Plaintiffs believe that there are thousands of persons in the class.

15. The named plaintiffs are members of the class of victims described herein. That is, they were contacted by an agent of the defendants posing s-a a "financial advisor"; they were subjected to a fraudulent churning sales presentation; and they replaced their existing IDS cash value life insurance policy with a new IDS cash value life insurance policy.

16. There are numerous and substantial questions of law and fact common to all of the members of the class which predominate over any individual issues. Included within the common questions of law and fact are:

- a. Whether IDS and AEFC, through their nationwide sales force, routinely churned existing IDS cash value life insurance policyholders into new IDS cash value life insurance policies;
- b. Whether IDS and AEFC, through their nationwide sales force, routinely misrepresented or failed to disclose to plaintiffs and members of the Class material information such as the nature and extent of

the commissions that would be earned by the agents in the sale of the life insurance policies

- c. Whether IDS and AEFCr through their agentsr routinely failed to disclose the substantial loss in benefits that results when policyholders are churnedr including that the policyholder may be subject to new contestability clauses that void his or her insurance coveragei
- d. Whether IDS and AEFC developedr encouraged and, by, through and with their agentsr engaged in a scheme designed to sell new policies to existing policyholders through false and misleading statements and fraudulent concealment of material factsi
- e. Whether IDS and AEFC systematically provided their agents with information concerning the cash value accumulations in current IDS life in-ULctncc policies and encouraged-their agents to strip the cash value from those policies by selling additional or replacement insurance to those policyholders who had accumulated cash valuei
- f. Whether IDS and AEFC failed to supervise and train their agents who engaged in the schemes described herein and to prevent their agents from violating state insurance and consumer protection laws and regulationsi
- g. Whether IDS and AEFC failed to maintain adequate internal controls to detect suspicious levels of replacement activity and prevent the improper replacement activity which systematically occurred at IDSi
- h. whether IDS and AEFC breached their fiduciary duties to plaintiffs and the members of the Class during the Class periodi

- i. Whether IDS and AEFC, through their nationwide sales force, misrepresented and failed to disclose to plaintiffs and members of the Class material information concerning the benefits from, and suitability and impact of, using some or all of an existing policy's cash value to purchase a new policy by means of a surrender or withdrawal/partial surrender of, or loan from, the existing policy;
- j. Whether the plaintiffs and members of the Class have sustained damages and the proper measure of damages; and
- k. Whether the plaintiffs and members of the Class are entitled to an award of punitive damages against defendants.

17. The claims of the plaintiffs are typical of the claims of the Class and plaintiffs have no interests adverse to the interests of other members of the Class.

18. Plaintiffs will fairly and adequately protect the interests of the Class and have retained counsel experienced and competent in the prosecution of complex class actions including complex questions that arise in policyholder litigation.

19. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Absent a class action, the class members will continue to suffer damage and defendants' violations of law will

proceed without remedy while defendants retain the proceeds of their ill-gotten gains.

20. Most individual members of the Class have little ability to prosecute an individual action, due to the complexity of the issues involved in this litigation and the enormity of the defendants' wrongdoing. Moreover, IDS and AEFC expressly targeted individuals of middle income as sales targets. These individuals simply do not have the financial wherewithal to challenge the financial Goliath that the defendants comprise.

21. This action will cause an orderly and expeditious administration of class claims, economies of time, effort and expense will be fostered, and uniformity of decisions will be ensured.

22. This action should present no difficulty that would impede its management by the court as a class action and is the best available means by which plaintiffs and members of the Class can seek redress for the harm caused to them by defendants.

**THE DEFENDANTS' IMPROPER CHURNING OF THEIR POLICYHOLDERS**

23. This case arises out of a "churning" sales scheme conducted by IDS and AEFC through its nationwide sales force of over 8,000 "financial advisors." Churning is illegal and is prohibited in every state by statute or common law.

24. Since at least 1985, IDS and AEFC have engaged in improper "churning" activities. The term "churning" is commonly used in the life insurance industry to describe the improper replacement of cash value life insurance policies with new cash value life insurance policies. The replacement is almost never in the insured's interest as the insured loses substantial cash value from the current policy as a result of surrender fees, administrative charges and sales commissions. Moreover, the insured is subject to new contestability, suicide and exclusion clauses. The insured may also be churned into a policy that pays a lower dividend or interest rate, and/or charges a higher insurance cost or policy loan rate. The replacement is always beneficial for the insurance company and its sales agent. The agent typically receives a large commission on the first year premium, and the insurance company collects fees and other administrative charges while placing a policy that is cheaper for the insurance company to provide.

25. In the early 1980s, IDS was failing competitively and financially. In 1984, American Express Company acquired defendant IDS and defendant AEFC (then known as IDS Financial Corporation) and made them part of its diversified financial services empire. As part of the drive to make IDS profitable,

IDS and AEFC began cross-selling products and services. Rather than refer to its sales people as such, or even as agents, IDS and AEFC euphemistically refer to them as "financial advisors." The defendants actively tried to hire as "financial advisors" individuals with a background in social services, including social workers, ministers and teachers. Defendants purposefully sought out such individuals because they are experienced at creating an atmosphere of trust. Thus, policyholders, when approached by one of defendants' financial advisors, are led to believe that the planner has the policyholder's best interests at heart, and that the "financial advisor" is acting in a fiduciary capacity. The policyholder may be further deceived that the "financial advisor" is independent and unbiased because some policyholders were charged a fee for the "advice" they received. In fact, the "financial advisors" are little more than sales agents who have been trained by the defendants to sell as much product by any means possible, including churning existing policyholders into new policies.

26. The sales agents are connected via laptop computer into the defendants' records and can obtain data for every policyholder, including the amount of cash that has accumulated in the policyholder's current IDS cash value life insurance

policy. This computer link also allows the agents to prepare a sales and marketing tool developed by defendants called a "Personalized Financial Proposal" which could contain a policy illustration of the new IDS cash value life insurance policy which made it appear that the new policy was more attractive than the current policy.

27. IDS promoted the churning scheme by furnishing to their agents information *In* policyholders, including information as to the amount of cash value available in existing policies, and by developing and distributing the software and materials necessary to execute the scheme. The IDS *II*financial advisors<sup>ll</sup> throughout the country practiced the churning scheme through the use of that information.

28. Using the information supplied by defendant, the "financial advisors<sup>ll</sup> would identify those IDS policyholders who had accumulated substantial cash values in their existing policies. Under the guise of reviewing the policyholder's overall financial well-being, the sales agents would call upon those customers and recommend that those customers replace their existing IDS pol~cy with a new insurance policy from IDS that would provide an additional death benefit or provided some other additional benefit. If the policyholder did not wish to replace



his or her existing policy, the "financial planner" would encourage the policyholder to purchase a new supplemental insurance policy. Typically, the policyholders were told that they could obtain these additional benefits at little or no additional cost. The policyholders were not told that the cash value would be stripped from their existing policies, either through surrender or through policy loans, to obtain the new policy and that they would be charged substantial related commissions and fees.

29. Because many of the IDS policyholders believed that the "financial advisors" were actually financial planners, i.e., independent consultants acting on the insured's behalf,--and because the "financial advisors" were trained to create an atmosphere of trust and confidence, many of the current IDS policyholders believed that it would be beneficial to them to replace their current IDS cash value life insurance policies with new IDS cash value life insurance policies.

30. IDS had a practice and policy of closely monitoring the relationships between its agents, the "financial advisors", and the clients. Thus, IDS knew and willfully turned a blind eye to, or was reckless in not knowing of, the systematic

churning of current policyholders that was occurring throughout the country.

31. The dissemination of false information and omission of material information by IDS and AEFC through their agents was a substantial factor in executing the churning scheme. IDS and AEFC failed to disclose to plaintiffs and members of the Class, inter alia, that:

- a. It was not in a policyholder's best interest to surrender or borrow against an existing policy to purchase a new policy, even if the new policy has a higher face amount of death benefit;
- b. The cash value in their existing policies would be depleted or loaned against without their knowledge or permission to pay commissions, administrative fees, and other, undisclosed charges;
- c. When loans were used to finance the additional policy, the death benefit could be reduced or eliminated in the existing policies as a result of loans secured by the cash value in such existing policies;
- d. When loans were used to finance the additional policy, that when the cash value in the existing policies was depleted, the policyholder would owe premiums on the new policy, premiums on the existing policy and interest on the cash value loan on the existing policy;
- e. The amount of commission that the agent would earn as a result of the transaction;

- f. The amount of the sales load or administrative charge that defendants would earn as a result of the transaction;
- g. The true financial effect of the transaction to the policyholder;
- h. If the existing policy was fully surrendered, valuable policy benefits such as fulfillment of suicide clauses, contestability clauses and medical waivers would be lost as the new policy would have new clauses to which the insured would be subject; and
- i. The purchase of a new policy was subject to new underwriting standards, at an older insurable age.

32. In order to effectuate the churning scheme, the "financial advisors" with the tacit consent of the defendants, failed to provide detailed disclosure-forms required by state law when a policy was being replaced.

33. In order to facilitate the replacement of existing policies so that IDS would have increased earnings and sales, the defendants, in addition to providing their agents with information concerning cash values and encouraging their agents to sell replacement policies, created and distributed simplified forms that enabled their agents to effectuate a churn with a simple check mark.

34. The defendants directly benefitted from the churning of their policyholders. IDS assesses substantial

charges and fees on the issuance of new policies and when surrenders or loans are made against an existing policy. The charges imposed by IDS for new policies may include a load charge, an annual policy fee, monthly payment charges and other administrative charges. When the existing policy is surrendered, IDS also charges a "surrender charge." When a loan is taken on an existing policy, IDS charges interest on the loan. If the loan and interest are not repaid, the policy eventually lapses. Therefore, IDS is economically motivated to encourage its agents to sell new policies by surrendering or loaning against current IDS products. These charges and substantial benefits to IDS were not disclosed to the plaintiffs and members of the Class.

35. IDS benefits in another way when policies are replaced. Typically, as an insured ages, he or she becomes more expensive to insure because a natural part of the aging process is the deterioration of the insured's health and well-being. For example, a 40 year old man pays less for \$100,000 of newly issued life insurance than a 50 year old man. Thus, when the insured is churned from one policy into another, he or she will pay a greater amount to receive the insurance coverage that already exists in the current policy.

36. Defendants and their agents knowingly engaged in the uniform deceptive sales practices and schemes described herein with the intent to and the result of obtaining profits, commissions and other financial benefits for themselves, to the financial detriment of plaintiffs and members of the Class.

**THE CHURNING OF: THE PLAINTIFFS**

37. In or about January 1992, the Benacquistos purchased a \$165,000 universal life insurance policy on the life of Lesa Benacquisto with a \$175,000 spouse rider on the life of Dan Benacquisto (Policy No. 90902850104). This policy was issued in February 1992. In or about March 1992, Dan purchased a disability insurance policy from IDS and the Benacquistos obtained two term life insurance policies in the amount of \$75,000 each.

38. In or about May 1995, the plaintiffs were contacted by an IDS financial advisor, Eileen DiGiovine. Ms. DiGiovine arranged a meeting to review the plaintiffs' financial situation. At this meeting, Ms. DiGiovine told the plaintiffs that their current insurance coverage was no good and was not earning enough money for them. Ms. DiGiovine told the plaintiffs that IDS had developed a new policy that would build more cash value while providing greater death benefits.

39. Based on that meeting and the representations of defendants' agent, the plaintiffs submitted an application for new IDS life insurance coverage. The new policy that was issued was an adjustable premium whole life policy with a \$190,000 death benefit on Lesa Benacquisto and a spouse rider with a \$175,000 death benefit on Dan. Although the Benacquistos had deposited approximately \$4,500.00 in their earlier policy, more than half of this cash value appears to have been lost to commissions and fees. The plaintiffs did not learn of the severe detriment they had suffered until a truly independent insurance advisor reviewed their insurance status. At that time, the Benacquistos realized that they had lost cash value, actually reduced the amount of their death benefits, suffered other financial detriment, including incurring a higher cost of insurance, and were subject to new contestability clauses.

**FIRST CAUSE OF ACTION**

(Common Law Fraud)

40. Plaintiffs repeat and reallege the allegations set forth in the foregoing paragraphs as if fully set forth herein.

41. The defendants, IDS and AEFC, by and through their agents, knowingly made affirmative misrepresentations to plaintiffs and the other members of the Class. These knowing

affirmative misrepresentations consisted of, among others, representations about replacing existing IDS cash value life insurance policies and that plaintiffs would be in a better position by surrendering or loaning against cash values and dividends from existing policies and using the money to purchase new life insurance.

42. In addition to affirmative misrepresentations, there were numerous material facts about the transactions that were knowingly concealed. For example, the nature and extent of the commissions that would be earned by the agent was concealed. The nature and extent of administrative, surrender and other charges were also concealed. It was further concealed that, in the future, there might be substantial increases in the premiums and/or decreases in the benefits.

43. Defendants' misrepresentations and omissions were made with the intent that plaintiffs and other members of the class rely on such statements and omissions, and replace their current IDS policies with new IDS policies.

44. At all times plaintiffs and other members of the Class relied upon the IDS agent to be honest, not to make misrepresentations, and to disclose all pertinent facts. The IDS agents knew that the plaintiffs and other members of the class

were relying upon them to deal with them honestly, and that the IDS agents occupied a position of trust. Indeed, IDS and AEFC trained their agents to create a sense of trust so that plaintiffs and the other members of the class would rely upon the agents for all their financial planning needs, including insurance.

45. In addition, defendants have continued to conceal their wrongdoing and many class members are not yet aware of the damage they have suffered.

46. As a direct and proximate result of the affirmative misrepresentations and the concealment of material facts, plaintiffs and the members of the Class Qld replace their current IDS cash value life insurance policies with new IDS cash value life insurance policies and have been harmed and damaged in an amount to be determined at trial.

47. Based on the facts and circumstances described above, the defendants acted toward plaintiffs and the members of the Class willfully, intentionally and with malice.

48. Defendants trained and authorized their agents throughout the country to engage in the sales scheme described above. Defendants knew that their agents were engaging in



"churning" activities on a nationwide basis and defendants condoned and ratified such activities.

49. Plaintiffs and the members of the Class are entitled to recover punitive damages from defendants.

## **SECOND CAUSE OF ACTION**

(Breach of Fiduciary Duty)

50. Plaintiffs repeat and reallege the allegations set forth in the foregoing paragraphs as if fully set forth herein.

51. Plaintiffs and the other members of the class, all of whom were existing current policyholders of IDS, were owed a fiduciary duty by IDS. The defendants trained their agents to present themselves as financial advisors who were acting in the insured's interest and on the insured's behalf. As a fiduciary, IDS owed plaintiffs and members of the class an affirmative duty of full and fair disclosure. IDS failed to honor and discharge that duty. Rather than ensure truthful disclosure of material facts, IDS, through its agents, concealed material facts and made affirmative misrepresentations relating to cash value IDS life insurance policies and the advisability of replacing such policies. This conduct was a breach of the fiduciary duty IDS owed to plaintiffs and the members of the class.

52. As a direct and proximate result of the breach of fiduciary duty, plaintiffs and the members of the Class have been harmed and damaged in an amount to be determined at trial.

THIRD CAUSE OF ACTION

(Negligent Misrepresentation)

53. Plaintiffs repeat and reallege the allegations set forth in the foregoing paragraphs as if fully set forth herein.

54. Based on defendants' training, and with the full knowledge and encouragement of defendants, defendants' agents represented to plaintiffs and other members of the class that it was in their best interest to replace their current cash value *iDS* life insurance policies ~~with new~~ issued **IDS** cash value insurance policies. Defendants and their agents represented to the plaintiffs and other members of the class that the new policies would provide a financial benefit to the policyholder, would build more money for the policyholder or would provide a greater death benefit than the insurance currently in force.

55. At the time these misrepresentations were made to plaintiffs and other members of the class, defendants and their agents knew that plaintiffs and members of the class were relying upon them to speak truthfully and provide them with accurate information. Defendants also knew that plaintiffs and members of

the class were likely to take action in reliance upon their statements. Defendants occupied a position of trust and had greater knowledge than the plaintiffs and other class members.

56. Despite this knowledge and their position, defendants, in complete disregard of their duty to speak honestly, and with care that the statements they make are accurate, disseminated information and made statements to plaintiffs and other members of the class without regard to the truth or falsity of such statements. Plaintiffs and members of the class relied upon ~his information and these statements, and replaced their existing IDS policies with new IDS policies. These actions that defendants induced have caused harm co the plaintiffs.

57. As a direct and proximate result of the breach of the duty defendants owed plaintiffs and the members of the Class, plaintiffs and members of the class have been harmed and damaged in an amount to be determined at trial.

#### **FOURTH CAUSE OF ACTION**

(Fraudulent Inducement)

58. Plaintiffs repeat and reallege the allegations set forth in the foregoing paragraphs as if fully set forth herein.

59. As intended by defendants, plaintiffs and members of the class relied upon defendants false statements and replaced current IDS cash value life insurance policies with new IDS cash value life insurance policies. These actions that defendants induced have caused harm to the plaintiffs.

60. As a result, plaintiffs and members of the class have been harmed and damaged in an amount to be determined at trial.

**FIFTH CAUSE OF ACTION**

(Negligence)

61. Plaintiffs repeat and reallege the allegations set forth in the foregoing-paragraphs as if fully set forth herein.

62. Defendants, who sought to install their agents as advisors in a position of trust to plaintiffs and members of the class, owed the Class a duty to act with reasonable care in training their agents, in supervising their agents, and in ensuring that full, honest and adequate disclosure was made to each policyholder. IDS breached this duty, and turned a blind eye to the obvious churning that occurred nationwide.

63. As a direct and proximate result, plaintiffs and members of the class have been harmed and damaged in an amount to be determined at trial.

SIXTH CAUSE OF ACTION

(Violation of Consumer Fraud Statutes)

64. Plaintiffs repeat and reallege the allegations set forth in the foregoing paragraphs as if fully set forth herein.

65. In violation of this state's consumer protection laws, and to the extent applicable, the consumer protection laws of other states, defendants have engaged in acts and practices, including misrepresentation, concealment and deceit, which confuse and mislead consumers. For instance, defendants' acts and practices, as alleged herein, violated, and continue to violate, the Minnesota consumer protection law, Minn. Stat. Sec. 325D.44 (1993) in at least the following respects:

- a. Defendants' acts and practices constitute representations that the goods and services in question have qualities, characteristics, or benefits which they do not have; and
- b. Defendants' acts and practices constitute conduct which creates a likelihood of confusion or misunderstanding.

66. Like Minnesota, Pennsylvania also protects its consumers from these types of deceptive practices. Defendants' actions violate the Pennsylvania Unfair Trade Practices and Consumer Protection Law, Pennsylvania Trade and Commerce Code 73 P.S. § 201-1 et ~ In executing the churning scheme described

above, defendants, and their agents, knowingly, recklessly and willfully with intent to defraud, represented that its goods and services had characteristics that they did not have and concealed pertinent and material information from plaintiffs and members of the class in selling life insurance to them. This conduct constitutes an unfair or deceptive trade act or practice which is prohibited by the relevant statutes.

67. Defendants' actions also violated relevant insurance codes that specifically prohibit churning life insurance policyholders. For instance, § 72A.20-.of the Minnesota Insurance Code prohibits the making of statements misrepresenting the terms of a policy to be issued or the benefits or advantages promised thereby or making any misrepresentation to a policy holder for the purpose of inducing the policyholder to lapse, forfeit or surrender insurance.

68. By virtue of the foregoing, plaintiffs and members of the class have been harmed and damaged in an amount to be determined at trial.

WHEREFORE, plaintiffs demand judgment against  
defendants IDS and AEFC as follows:

- A. Determining that the action is a proper class action;
- B. Awarding plaintiffs and the Class their compensatory damages for the wrongful acts complained of;
- C. Awarding plaintiffs and the Class damages and their reasonable attorneys' fees for violations of consumer protection statutes;
- D. Awarding plaintiffs and the Class their costs and disbursements incurred in connection with this action, including reasonable attorneys' fees, expert witness fees and other costs;
- E. Establishing an appropriate claims resolution facility for the determination of any individual issues; and
- F. Granting such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiffs, on their own behalf and on behalf of all others similarly situated, hereby demand a trial by jury on all issues triable at law.

Dated: ~~1.1--~~ **(Ib!** ~~(6~~

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**ACKNOWLEDGEMENT**

The undersigned hereby acknowledges that costs, disbursements and reasonable attorney and witness fees may be awarded pursuant to Minn. Stat. § 549.21, subd. 2, to the party against whom the allegations in this pleading are asserted.