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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

AARON BRETT CHARNEY, Plaintiff,	:	Index No. 06- 07-100625
— against —	:	**VERIFIED COMPLAINT**
SULLIVAN & CROMWELL LLP, Defendant.	:	

Aaron Brett Charney ("Plaintiff"), appearing *pro se*, as and for my Complaint against the law firm Sullivan & Cromwell LLP ("Defendant" or "S&C"), alleges as follows:

INTRODUCTION

1. This complaint arises from the systematic discrimination and campaign of retaliation by S&C partners — including Benjamin F. Stapleton, III ("Stapleton"); James C. Morphy ("Morphy"); Theodore O. Rogers ("Rogers"); David B. Harms ("Harms"); Alexandra D. Korry ("Korry"); Keith A. Pagnani ("Pagnani"); John J. O'Brien ("O'Brien") and Eric M. Krautheimer ("Krautheimer") — and S&C employees against Plaintiff based on Plaintiff's sexual orientation. Plaintiff has been subjected to lewd and illegal conduct including, among other things: (i) Krautheimer throwing a document at Plaintiff's feet and instructing Plaintiff to "bend over and pick it up — I'm sure you like that"; (ii) Morphy and Rogers fabricating a work evaluation that falsely accused Plaintiff of, among other things, overbilling; (iii) Harms responding to Plaintiff's complaint of sexual orientation discrimination by telling Plaintiff to relocate to a foreign office; (iv) Pagnani responding to Plaintiff's complaint of sexual orientation discrimination by signaling in a firmwide correspondence that Plaintiff has no future at S&C; (v) O'Brien using his own homosexuality in a ploy to fabricate a defense for S&C's sexual

orientation discrimination against Plaintiff; (vi) Korry falsely accusing Plaintiff of, and demanding that Plaintiff be terminated for, carrying on an "unnatural" homosexual relationship with another male S&C associate; and (vii) Stapleton circulating documentation throughout S&C that falsely accused Plaintiff of engaging in a homosexual relationship with another male S&C associate.

2. Plaintiff has, among other things, certain tapes that prove facts set forth in paragraph 1 above and in the paragraphs below.

JURISDICTION AND VENUE

3. This Court has personal jurisdiction over Defendant pursuant to Rule 301 of the New York Civil Practice Law and Rules (the "CPLR").

4. Venue in this Court is proper pursuant to Rule 503(a) and (c) of the CPLR, as Plaintiff resides in New York County and the alleged discrimination and retaliation occurred in New York County.

PARTIES

5. Plaintiff is an associate attorney employed in the New York office of Defendant. Plaintiff is a homosexual male residing in New York County.

6. Plaintiff was and is an employee of Defendant, as that term is defined under the Administrative Code of the City of New York.

7. Defendant is a limited liability partnership organized under the laws of the State of New York, which regularly transacts business and maintains its principal offices in New York. Defendant was and is Plaintiff's employer, as that term is defined under the Administrative Code of the City of New York.

FACTS

8. In May 2000, Plaintiff graduated from Brown University, *magna cum laude* and Phi Beta Kappa. In August 2000, Plaintiff matriculated into Columbia University's School of Law. After a highly successful first year of law school, Plaintiff was selected to participate in S&C's 2002 summer associate program. At the end of the 2002 summer associate program, Plaintiff was offered a position as a full-time associate with S&C, which Plaintiff immediately accepted. In May 2003, Plaintiff graduated from Columbia University's School of Law with honors, as a Harlan Fiske Stone Scholar. On September 15, 2003, Plaintiff began working at S&C as a full-time associate.

9. Plaintiff is currently a fourth-year associate in the M&A subgroup (the "M&A Group") of S&C's general practice group ("General Practice").

Eric M. Krautheimer Discriminates

10. At some point in the fall of 2005, Krautheimer apparently learned or began to suspect that Plaintiff is homosexual and began to take hostile and discriminatory actions against Plaintiff, initiating a pattern and practice among S&C partners of humiliating Plaintiff and undermining Plaintiff's reputation.

11. On October 18, 2005, Krautheimer threw a document at Plaintiff's feet and instructed Plaintiff to "bend over and pick it up — I'm sure you like that".

12. The next day, Krautheimer handed a document to Plaintiff and said "I just took a shit while reading this, and some might still be on there for you".

James C. Morphy Discriminates

13. On November 16, 2005, Morphy, Managing Partner of the M&A Group, gave Plaintiff his semi-annual review. Morphy conveyed uniformly outstanding work evaluations to Plaintiff that had been written by various S&C partners, more senior associates and clients.

14. S&C attorneys have referred to Plaintiff as "one of the best associates at S&C", described Plaintiff's work product as "brilliant" and described Plaintiff's professional efforts as "Herculean". S&C clients have praised Plaintiff's work product and dedication.

15. At the conclusion of Plaintiff's semi-annual review, Morphy raised a new issue unrelated to Plaintiff's work: that several S&C partners had complained about seeing Plaintiff and Gera Grinberg ("Grinberg"), a male associate in the M&A Group, "walking the halls together" and "eating lunch together", and that this "needs to stop" — a thinly veiled (and false) accusation that Plaintiff was engaged in a homosexual relationship with Grinberg, making it known that Morphy would not tolerate Plaintiff and Grinberg engaging in a homosexual relationship.

16. At no time have Plaintiff and Grinberg engaged in a homosexual relationship.

17. However, various combinations of S&C partners and employees (including associates) are or have been sexually involved with colleagues, without being singled out.

18. Morphy, for example, is married to Priscilla P. Morphy, a former S&C secretary/legal assistant, and this relationship began while both worked at S&C; Stapleton, a member of S&C's management committee (the "Committee"), is married to Jane F. Stapleton, a former member of S&C's recruiting department, and this relationship began while both worked at S&C.

Benjamin F. Stapleton, III Discriminates

19. On April 5, 2006, Stapleton submitted documentation for circulation to all S&C partners in General Practice disparaging Plaintiff and Grinberg as "joined at the hip" and working "closely (too closely)" — yet another thinly veiled (and false) accusation that Plaintiff

was engaged in a homosexual relationship with Grinberg, but this time broadcast throughout S&C.

Alexandra D. Korry Discriminates

20. In mid-December, 2005, Plaintiff learned from Daniel L. Serota ("Serota"), an associate in the M&A Group, that Krautheimer and Korry were disgusted to "see them [Plaintiff and Grinberg] together", and that Krautheimer intended to punish Plaintiff and Grinberg for their "relationship" by "putting the screws" to Plaintiff and Grinberg.

21. On April 28, 2006, Korry told Serota that Korry believed that Plaintiff and Grinberg were engaged in an "unnatural relationship", and asked Serota to disclose personal details about Plaintiff and Grinberg's "unnatural relationship".

22. Soon after Korry's conversation with Serota, Serota called Plaintiff to inform Plaintiff of Korry's "unnatural relationship" accusation and Korry's demand for personal details.

23. During this conversation, Serota told Plaintiff that by "unnatural", Korry meant "homosexual".

Plaintiff Lodges Complaint of Sexual Orientation Discrimination

24. On May 1, 2006, Plaintiff met with Harms, Co-Managing Partner of General Practice, to lodge a formal complaint of sexual orientation discrimination — an action consistent with the S&C Office Manual's guidelines.

25. At this meeting, Plaintiff informed Harms of the illegal conduct by Krautheimer, Morphy and Korry, as detailed above.

26. Plaintiff had not yet learned of Stapleton's discrimination against Plaintiff.

27. Plaintiff observed Harms taking handwritten notes.

28. In response to Harms' questioning, Plaintiff told Harms that Plaintiff is homosexual and that Grinberg is not.

29. Harms promised to investigate Plaintiff's allegations of sexual orientation discrimination and report back to Plaintiff within one week, and to do both with the "utmost discretion".

30. Additionally, Harms praised Plaintiff's work performance, informing Plaintiff that all of the attorneys with whom Plaintiff worked considered Plaintiff's work product superb.

31. Harms also told Plaintiff that, at the M&A Group partners' meeting on April 27, 2006, S&C partners had stressed that Plaintiff and Grinberg are "both excellent associates" and that their working together is "synergistic".

32. On May 10, 2006, Harms came to Plaintiff's office to discuss his investigation into Plaintiff's allegations of sexual orientation discrimination.

33. Harms assured Plaintiff that Harms kept both Plaintiff's complaint of sexual orientation discrimination and Harms' investigation confidential.

34. Harms' investigation consisted of contacting Korry and Krautheimer.

35. Harms did not contact Morphy.

36. Harms did not contact Grinberg.

37. Harms did not contact Serota.

38. Harms informed Plaintiff that Korry and Krautheimer denied making any discriminatory comments.

39. Harms reaffirmed to Plaintiff what Harms had told Plaintiff on May 1, 2006: that "everyone understands — and it should be underscored — that you do really great work."

40. Harms assured Plaintiff that Plaintiff would not experience any change in the terms or conditions of Plaintiff's employment on account of having raised a complaint of sexual orientation discrimination.

41. Although Plaintiff never told Stephen M. Kotran ("Kotran"), a partner in the M&A Group, that Plaintiff had lodged a complaint of sexual orientation discrimination with Harms, on May 12, 2006, Kotran informed Plaintiff that S&C had not conducted a meaningful investigation of Plaintiff's complaint of sexual orientation discrimination, and that Kotran would demand that Harms both conduct a "real investigation" and report back to Plaintiff regarding Harms' findings.

42. But neither Harms nor anyone else at S&C responded to Kotran's demands: no further investigation was conducted, and no one again contacted Plaintiff regarding Plaintiff's complaint of sexual orientation discrimination.

43. In reality, S&C's anti-discrimination policy exists only as a matter of form.

44. While S&C purports to apply its anti-discrimination policy to "any person affiliated with the Firm [S&C]" and take "appropriate disciplinary action, up to and including termination", the policy is effectively unenforceable against S&C partners.

45. The S&C partnership agreement ("S&C's Partnership Agreement") (a copy of which is attached hereto as Annex A) makes it effectively impossible to terminate an S&C partner who has unlawfully discriminated. While S&C's Partnership Agreement permits the Committee, comprised of as few as five S&C partners, to terminate an S&C partner who "might" expose S&C "to the risk of financial embarrassment", S&C's Partnership Agreement does not provide any specific mechanism for terminating an S&C partner who unlawfully discriminates.

46. Moreover, coming forward to report discrimination at S&C results in retaliation.

Alexandra D. Korry Retaliates

47. On May 2, 2006, Serota informed Plaintiff that on or about May 1, 2006, in response to Plaintiff's complaint of sexual orientation discrimination, Korry emailed and spoke to Serota in an attempt to compel Serota to corroborate that Korry had not made "any [discriminatory] comment about anyone's looks, creed, religion or other characteristics".

48. On May 3, 2006, Serota informed Plaintiff that on or about May 1, 2006, in response to Plaintiff's complaint of sexual orientation discrimination, Korry emailed Harms accusing Plaintiff of being "a liar" and demanded that "all liars should be fired".

49. By this email, Korry called for Plaintiff's termination.

50. On May 2, 2006, Serota confirmed to Plaintiff what Serota had already told Plaintiff on April 28, 2006 — that Korry had called the relationship between Plaintiff and Grinberg an "unnatural" relationship.

51. Despite Plaintiff's urging, Serota refused to come forward to tell the truth about Korry's illegal conduct because Serota believed that "there is no such thing as confidence at S&C" — that S&C partners would punish Serota for telling the truth about Korry's illegal actions — and that Korry would "go ballistic" and "retaliate" against Serota.

52. On May 3, 2006, Serota told Plaintiff that Serota was "terrified of her [Korry]".

53. Serota then defended Korry's illegal actions on the grounds that Krautheimer got Korry "riled up". Serota suggested that Krautheimer "conveyed to her [Korry] that something is going on between you two [Plaintiff and Grinberg] that's not normal". Serota urged Plaintiff to "go after Eric [Krautheimer] and don't drag her [Korry] into it".

54. To advance Serota's plea, Serota reminded Plaintiff that, at a dinner party hosted by Korry and Korry's husband Robin Panovka (a partner at the law firm Wachtell, Lipton, Rosen

& Katz), Krautheimer and Melissa Sawyer ("Sawyer") (an associate in the M&A Group) denigrated Grinberg because of Grinberg's Canadian national origin.

55. Serota had previously told Plaintiff that, according to Krautheimer and Sawyer, S&C considers "all Canadians to be irrelevant".

56. The S&C Office Manual's guidelines purport to safeguard employees against discrimination based on national origin.

57. As a further act of retaliation, on or about August 6, 2006, Korry deleted Plaintiff from the list of S&C attorneys to be publicly recognized for the closing of a Korry-supervised transaction — the sale of Adelphia Communications Corporation to Time Warner Cable and Comcast Corporation ("Korry's Adelphia Sale") — on which Plaintiff has worked for more than 30 months.

58. By contrast, before S&C partners began to take hostile and discriminatory actions against Plaintiff — including Korry demanding that Plaintiff be terminated — Plaintiff was publicly recognized for the signing of Korry's Adelphia Sale.

59. On November 17, 2006, Neil T. Anderson ("Anderson"), the senior S&C partner on Korry's Adelphia Sale, stated that Anderson had documented that Plaintiff and Grinberg both have produced excellent work in connection with Korry's Adelphia Sale.

Keith A. Pagnani Retaliates

60. On the morning of May 11, 2006 — only a few hours after Harms assured Plaintiff that Plaintiff would not experience any change in the terms or conditions of Plaintiff's employment — the list of S&C's 2006 summer associate mentors authored by Pagnani ("Pagnani's Mentor List"), S&C's Hiring Partner and head of legal recruiting, was circulated.

61. Pagnani's Mentor List did not include Plaintiff.

62. Under Pagnani's leadership, S&C's summer associate program had been rated the nation's worst in 2005 (out of 156 law firms), and fifth-worst in 2004 (out of 159 law firms), according to the *American Lawyer* survey.

63. As one S&C partner describes S&C's rankings, S&C "is breaking away from the pack in the wrong direction".

64. In an attempt to rescue the summer program, a committee of S&C partners participated in numerous meetings to select the best S&C representatives to serve as mentors for the 2006 summer associates (the "Summer Program Meetings").

65. Plaintiff had a longstanding reputation as one of S&C's most valuable recruiters.

66. S&C Chairman H. Rodgin Cohen ("Chairman Cohen") hand-selected Plaintiff to assist Chairman Cohen with the interviewing process (for a summer associate position) for the nephew of the CEO of Citigroup Inc.

67. Additionally, Plaintiff assisted Mary E. Mulligan ("Mulligan"), S&C's Director of Legal Recruiting until being terminated in April 2006, in authoring the list of 2006 summer associate mentors ("Mulligan's Mentor List").

68. Mulligan's Mentor List had designated Plaintiff and Korry to co-mentor a summer associate, as associate and partner mentor respectively.

69. It should be noted that Pagnani's Mentor List was derived from Mulligan's Mentor List: of the 61 full-time associates in S&C's New York office that Mulligan's Mentor List had identified as associate mentors, Pagnani's Mentor List included all but two associates — Plaintiff and one other associate — who were still employed there.

70. Plaintiff's colleagues were stunned that Plaintiff was not selected as a mentor, and wanted to know what Plaintiff had done to be excluded by Pagnani.

71. Upon learning that Plaintiff had been excluded from Pagnani's Mentor List, Plaintiff sought an explanation from Andrea M. Locklear ("Locklear"), S&C's Chief Legal Personnel and Development Officer.

72. Locklear told Plaintiff that Pagnani was "in charge of mentor assignments" for the 2006 summer program, and that Locklear's involvement was limited to "sitting in on" the Summer Program Meetings.

73. Further, in response to Plaintiff's detailing S&C partners' discrimination based on Plaintiff's sexual orientation, Locklear told Plaintiff that Locklear was "horrified" and "embarrassed to be affiliated with S&C".

74. Locklear acknowledged that Plaintiff could infer that Pagnani was "sending a message" to Plaintiff by "omitting" Plaintiff from Pagnani's Mentor List.

75. On May 12, 2006, Kotran told Plaintiff that Pagnani had intentionally omitted Daniel Petroff ("Petroff"), an associate in the M&A Group, from Pagnani's Mentor List because Petroff was "being fired".

76. Kotran told Plaintiff that while Pagnani denied to Kotran having intentionally omitted Plaintiff from Pagnani's Mentor List, Kotran considered this to be a lie.

77. Plaintiff's omission from Pagnani's Mentor List was a retaliatory act that signaled that Plaintiff had no future at S&C.

78. Shortly after Pagnani retaliated against Plaintiff for Plaintiff's complaint of sexual orientation discrimination, Chairman Cohen — having recently received a letter on behalf of Plaintiff detailing, among other things, Pagnani's discriminatory action — appointed Pagnani as the Co-Chair of S&C's Associate Development Committee, a committee created to "enhance associate development and morale".

79. During Plaintiff's conversation with Locklear on May 11, 2006, Locklear directed Plaintiff to tell Harms about Plaintiff's omission from Pagnani's Mentor List, which Plaintiff immediately did.

80. On May 11, 2006, Harms told Plaintiff that Harms would speak to Pagnani and report back.

David B. Harms Retaliates

81. Later that same day, Harms told Plaintiff that Plaintiff's omission from Pagnani's Mentor List was an "administrative oversight".

82. Harms then raised a new issue: that Plaintiff and Grinberg "are working together too much and too closely".

83. Harms told Plaintiff to abandon Plaintiff's complaint of sexual orientation discrimination — "leave what is in the past in the past" and "let bygones be bygones".

84. Harms told Plaintiff that Plaintiff needed to "move on — don't make yourself [Plaintiff] a recluse".

85. Harms went on to tell Plaintiff that, because Plaintiff had lodged a formal complaint of sexual orientation discrimination, Plaintiff should "relocate to a foreign office".

John J. O'Brien Retaliates

86. Prior to Plaintiff lodging a formal complaint of sexual orientation discrimination to Harms, O'Brien had never contacted Plaintiff during Plaintiff's tenure as a member of the M&A Group.

87. On May 8, 2006, O'Brien, a homosexual S&C partner, told Plaintiff that "it's time we [Plaintiff and O'Brien] work together".

88. On or around May 11, 2006, O'Brien sought permission from Kotran (with whom Plaintiff was currently working) to assign Plaintiff to O'Brien's transaction involving Merrill Lynch & Co. and BlackRock ("O'Brien's Merrill Lynch Transaction").

89. O'Brien misinformed Kotran that Plaintiff had billed only 150.0 hours in April 2006; Plaintiff had actually billed 219.25 hours in April 2006.

90. Kotran told O'Brien that Plaintiff was extremely busy and should not be assigned to O'Brien's Merrill Lynch Transaction.

91. Nonetheless, O'Brien assigned Plaintiff to O'Brien's Merrill Lynch Transaction, and told Plaintiff that Kotran had authorized this assignment.

92. Upon information and belief, S&C undertook to have O'Brien assign Plaintiff to O'Brien's Merrill Lynch Transaction to manufacture a defense against Plaintiff's complaint of sexual orientation discrimination. Specifically, having a homosexual partner work with (and ultimately criticize) Plaintiff would serve to delegitimize Plaintiff's complaint of sexual orientation discrimination.

93. Later on May 11, 2006, Plaintiff told Kotran that O'Brien had assigned Plaintiff to O'Brien's Merrill Lynch Transaction, and that O'Brien had also told Plaintiff that Kotran had authorized this assignment.

94. That same day, Kotran removed Plaintiff from O'Brien's Merrill Lynch Transaction.

95. S&C's retaliatory intent — to fabricate a defense for S&C's sexual orientation discrimination against Plaintiff — is further unmasked by the fact that no associate was staffed in lieu of Plaintiff on O'Brien's Merrill Lynch Transaction for nearly three months after Plaintiff's removal by Kotran.

Kotran Tells Plaintiff that S&C is Conducting a Campaign of Retaliation

96. On May 11, 2006, Kotran told Plaintiff that several S&C partners had asked Kotran if Plaintiff and Grinberg were "romantically involved" in a homosexual relationship.

97. Kotran also stated that many S&C partners had accused Kotran of being "an enabler of your [Plaintiff and Grinberg's] relationship."

98. Further, Kotran warned Plaintiff that S&C's "administrative machine is moving against you [Plaintiff]" — that S&C had commenced a campaign of retaliation against Plaintiff for having lodged a complaint of sexual orientation discrimination.

99. Kotran informed Plaintiff that several partners in the M&A Group had "complained vociferously" to Kotran about Kotran staffing Plaintiff and Grinberg together on Eastman Kodak Company's ("Kodak") exploration of strategic alternatives in connection with its health group segment business ("Kodak's Health Strategic Alternatives") — Kotran had assigned both Plaintiff and Grinberg to Kodak's Health Strategic Alternatives many months earlier — and were putting pressure on Kotran to remove either Plaintiff or Grinberg from Kodak's Health Strategic Alternatives.

100. To this end, on March 3, 2006 (four days prior to Plaintiff and Grinberg receiving Kotran's directive to begin drafting definitive documentation in connection with Kodak's Health Strategic Alternatives) Morphy and Serota (without Plaintiff, Kotran or Grinberg) had participated in a "strategic call with Kodak" in connection with Kodak's Health Strategic Alternatives.

101. During this same conversation on May 11, 2006, Kotran also told Plaintiff that M&A Group partners had informed Kotran of a new S&C ploy: to claim that Plaintiff and

Grinberg pose an "M&A Group management problem" in order to establish a defense against Plaintiff's complaint of sexual orientation discrimination.

102. Kotran denied that Plaintiff and Grinberg pose any problem whatsoever.

103. In fact, Kotran had repeatedly asked Plaintiff and Grinberg to work on various matters together in order "to bridge" Plaintiff and Grinberg's respective work schedules in anticipation of Plaintiff, Grinberg and Kotran working together on Kodak's Health Strategic Alternatives and another high-profile transaction (client name omitted for confidentiality reasons). By way of example, attached hereto as Annex B is an email from Kotran to Plaintiff and Grinberg that illustrates the measures that Kotran has taken.

104. While Kotran stated that Plaintiff and Grinberg do not pose any problem whatsoever, Kotran noted the lengths that Pagnani takes to staff Sawyer, and Korry to staff Serota, on their respective transactions.

105. Pagnani, for example, had removed Sawyer from, among other matters, the ongoing hostile transaction involving Inco Limited (a Canadian corporation) (the "Canadian Inco's Transaction"), to make Sawyer available for Pagnani's new Unitedhealth Group Incorporated transaction. Pagnani, in his former role as Assigning Partner of the M&A Group (Pagnani held this position for 10 years until being replaced in August 2006), dropped Canadian Inco's Transaction onto Petroff, who Pagnani and Morphy were conspiring to fire.

106. Moreover, Korry had Morphy intervene when Serota refused to work on Korry's UBS AB ("UBS") acquisition of a division of ABN AMRO Bank N.V. ("Korry's UBS Transaction"). Serota has worked with Korry for much of Serota's six years at S&C, and exclusively for two years. According to Serota, Serota refused Morphy's demand to work on Korry's UBS Transaction because of the daily abuse and profanity-laced scolding Serota had

received from Korry. Serota feared following the fate of Francis J. Cooke ("Cooke"), who Serota told Plaintiff that Korry had tormented. Specifically, according to Serota, Korry's abuse drove Cooke to relocate away from Korry to S&C's London office (Korry officed in New York) and, after Korry's abuse followed Cooke to London, compelled Cooke to resign from S&C. Ultimately, according to Serota, Serota yielded to Korry's staffing demand when Korry threatened to have Michael M. Wiseman ("Wiseman"), member of the Committee, command Serota's obedience.

107. Prior to Korry forcing Serota to work on Korry's UBS Transaction, as described in paragraph 106 above, Pagnani had assigned Petroff to Korry's UBS Transaction. After the "kick-off" conference call, Korry yelled at Petroff, "[Y]ou're screwing me." In response, Petroff quit Korry's UBS Transaction.

108. Later on May 11, 2006, at S&C's annual attorneys' dinner, S&C partners denigrated Plaintiff's complaint of sexual orientation discrimination, describing it as a "ruse" intended to ensure that Plaintiff could continue to work with Grinberg. Kotran rejected this assertion, saying that Plaintiff would not have lodged a complaint of sexual orientation discrimination — an action Kotran said "sabotaged" Plaintiff's "flourishing career" at S&C — unless it was truthful.

109. On May 12, 2006, when relaying to Plaintiff the content of the conversation at S&C's annual attorneys' dinner about Plaintiff's complaint of sexual orientation discrimination, Kotran told Plaintiff that Kotran knew that Plaintiff "would not frivolously bring a nuclear bomb into the office".

110. Concerned about S&C's newly-minted "management problem" ploy, on May 24, 2006, Plaintiff went to S&C's Legal Personnel Department to obtain a copy of Plaintiff's personnel file, as permitted by the S&C Office Manual's guidelines.

111. Initially, Kathryn Pearlman ("Pearlman"), administrative assistant to Locklear, informed Plaintiff that Pearlman would "make copies" of Plaintiff's personnel file for Plaintiff.

112. Later that same day, however, Julia Beach ("Beach"), S&C's Assistant Director for Legal Personnel, told Plaintiff that Beach had been instructed not to provide Plaintiff with any copies from or access to Plaintiff's personnel file.

113. Beach is employed under Pagnani's supervision.

James C. Morphy & Theodore O. Rogers Retaliate

114. On July 6, 2006, Morphy and Harms gave Plaintiff his semi-annual review.

115. Morphy proceeded to read aloud from a work evaluation of Plaintiff that Morphy claimed Kotran had authored and submitted for Kodak's Health Strategic Alternatives ("Morphy & Rogers' Fabricated Kodak Review").

116. Morphy & Rogers' Fabricated Kodak Review states that Plaintiff and Grinberg "run up too many hours when working together" and pose an "M&A group management problem" because Plaintiff and Grinberg "are only willing to be staffed on transactions if they [Plaintiff and Grinberg] can come on as a packaged deal". Morphy & Rogers' Fabricated Kodak Review also states that Plaintiff and Grinberg's "joint work approach" obscures the assessment of "credit (or blame) for good or deficient work product".

117. Morphy & Rogers' Fabricated Kodak Review concludes by raising the possibility that Plaintiff and Grinberg's closeness could be grounds to "drive them [Plaintiff and Grinberg] out of the firm [S&C]".

118. In addition to reading Morphy & Rogers' Fabricated Kodak Review, Morphy ad-libbed with further baseless comments. For example, Morphy stated that Kotran had previously described Plaintiff and Grinberg as an "M&A Group management problem" in an earlier review of Plaintiff for a Wachovia Corporation ("Wachovia") matter. But Grinberg was not staffed on the Wachovia transaction, making it impossible for Grinberg to have been at all relevant or for any management problem to have been posed.

119. On July 14, 2006, Plaintiff confronted Kotran regarding Morphy & Rogers' Fabricated Kodak Review.

120. Kotran angrily disavowed Morphy & Rogers' Fabricated Kodak Review.

121. Kotran told Plaintiff that Morphy & Rogers' Fabricated Kodak Review had been fabricated by Morphy and Rogers (a member of the Executive Committee of the New York State Bar Association's Labor and Employment Law Section), and that Kotran would "take the heat" by confronting Morphy and Rogers to demand that Morphy and Rogers provide Plaintiff with Kotran's authentic review of Plaintiff for Kodak's Health Strategic Alternatives.

122. Chairman Cohen selected Rogers to be involved in this issue.

123. Morphy has also indicated that Wiseman is involved in this issue.

124. Upon information and belief, Morphy & Rogers' Fabricated Kodak Review was an effort to manufacture a "business justification" defense for S&C's sexual orientation discrimination and retaliation against Plaintiff. Specifically, Morphy and Rogers sought to recast S&C's illegal treatment of Plaintiff as enforcement of a business necessity.

125. Kotran told Plaintiff that Kotran believed that Plaintiff's performance in connection with Kodak's Health Strategic Alternatives was "outstanding", and reiterated that it was Kotran's decision to staff Plaintiff and Grinberg together. Kotran went on to remind

Plaintiff that Kotran had ensured that Plaintiff and Grinberg's respective work schedules would allow Plaintiff and Grinberg to work together on Kodak's Health Strategic Alternatives, and to tell Plaintiff that Kotran and Kodak were benefiting from Plaintiff and Grinberg's synergy.

126. As Kotran suggested to Plaintiff, if S&C partners truly considered Plaintiff and Grinberg a management problem, surely the law firm that spearheaded the U.S. acquisition of the Panama Canal, incorporated Edison General Electric Company, and today generates annual revenues approaching $1 billion would have swiftly rectified any supposed problem posed by two associates.

127. On July 18, 2006, Kotran informed Plaintiff that Kotran had confronted Morphy and Rogers regarding Morphy & Rogers' Fabricated Kodak Review.

128. Kotran told Plaintiff that Morphy and Rogers "would not provide" Plaintiff with a copy of Kotran's authentic review of Plaintiff for Kodak's Health Strategic Alternatives.

129. During this same conversation, Kotran told Plaintiff that Kotran had authored and resubmitted a review of Plaintiff for Kodak's Health Strategic Alternatives a day earlier ("Kotran's Resubmitted Kodak Review").

130. Kotran stated that Kotran's Resubmitted Kodak Review "makes clear" that Plaintiff and Grinberg are "both outstanding attorneys", "work efficiently together" and "make an excellent team".

131. Kotran told Plaintiff that Kotran's objective for Kotran's Resubmitted Kodak Review was to ensure that S&C could not use Kotran to falsely impugn Plaintiff and/or Grinberg.

132. To this end, Kotran's Resubmitted Kodak Review states that Plaintiff and Grinberg have done "a great job dividing up" work responsibilities to efficiently manage "a big

and difficult enterprise" and have accomplished tasks "in record time and with a degree of organization and consistency that very much pleased Kodak".

133. In sum, Kotran's Resubmitted Kodak Review noted that Plaintiff and Grinberg each have "done excellent work".

134. Kotran conveyed similarly effusive praise in communications with, among other individuals, Connie J. Shoemaker of Goldman, Sachs & Co ("Goldman Sachs").

135. Furthermore, on July 18, 2006, Kotran — after indicating that Kotran had been informed of formal correspondence between Plaintiff and S&C regarding Plaintiff's allegations of sexual orientation discrimination and retaliation — instructed Plaintiff to have an attorney obtain a copy of Kotran's Resubmitted Kodak Review.

136. On October 20, 2006, Plaintiff received a package via U.S. mail that contained, among other things, Morphy & Rogers' Fabricated Kodak Review and Kotran's Resubmitted Kodak Review.

137. On July 24, 2006, Kotran emailed Plaintiff and Grinberg to reaffirm that Plaintiff and Grinberg had been "very efficient to date" in "the lengthy and cumbersome process that Kodak is engaging in". Attached hereto as Annex C is the aforementioned email from Kotran to Plaintiff and Grinberg.

138. On January 9, 2007, Kodak executed definitive documentation with a subsidiary of Onex Corporation (a Canadian corporation) ("Onex") in connection with Kodak's Health Strategic Alternatives.

139. Sharon E. Underberg (Assistant General Counsel at Kodak) ("Underberg") and Arline L. Bayò Santiago (Senior Legal Counsel at Kodak), among others, have praised Plaintiff

and Grinberg's work product and efficiency in connection with Kodak's Health Strategic Alternatives.

140. For instance, on January 9, 2007, in the presence of Kodak and Onex executives (as well as legal counsel to both companies) and unsolicited, Underberg singled out Plaintiff and Grinberg for their "efforts above and beyond" in connection with Kodak's Health Strategic Alternatives.

141. On January 9, 2007 — hours before definitive documentation was executed in connection with Kodak's Health Strategic Alternatives — Kotran staffed Plaintiff and Grinberg together on a new, highly complex transaction involving a long-standing S&C client (client name omitted for confidentiality reasons).

S&C Expands Its Retaliation

142. On September 13, 2006, Plaintiff learned that an S&C associate — who had previously worked and socialized with Pagnani — was disseminating false allegations, both within the associate ranks at S&C and publicly, that Plaintiff and Grinberg were engaged in a homosexual relationship.

143. S&C partners took action to deny employment at Goldman Sachs to a potential witness to S&C partners' discrimination against Plaintiff to intimidate this potential witness. Goldman Sachs is S&C's principal client and its General Counsels, Gregory K. Palm and Esta E. Stecher, are both former S&C partners.

144. S&C partners took overt action to antagonize a potential witness to S&C partners' discrimination against Plaintiff, even using S&C employees to carry out intimidation of this potential witness.

Impact on Plaintiff

145. The ramifications of S&C's discrimination, retaliation, and hostility against Plaintiff are serious and significant. For the first time, Plaintiff has engaged the services of a mental health professional, and takes prescription medications for various ailments.

Violations

146. The conduct of S&C partners and employees in discriminating against Plaintiff on the basis of Plaintiff's sexual orientation, and in retaliating against Plaintiff for lodging a complaint about such discrimination, constitute violations of the New York City Human Rights Law.

147. The above mentioned conduct by S&C attorneys violates Disciplinary Rule DR 1-102(A)(6) of the New York State Bar Association Lawyer's Code of Professional Responsibility.

148. The above mentioned conduct also violates the Statement of Diversity Principles of the Association of the Bar of the City of New York, to which S&C is a signatory.

AS AND FOR A FIRST CAUSE OF ACTION

(Sexual Orientation Discrimination — New York City Administrative Code)

149. Plaintiff repeats and realleges each and every allegation contained above as if set forth again below.

150. By the acts and practices described above, Defendants discriminated against Plaintiff in violation of the New York City Administrative Code, including, *inter alia,* § 8-107(1)(a).

151. Defendant acted with malice and/or reckless indifference to Plaintiff's statutorily protected rights.

152. Plaintiff is now suffering severe emotional and physical distress and irreparable damage to his career, reputation and future earning potential from Defendant's discriminatory conduct and will continue to do so unless and until the Court grants relief.

AS AND FOR A SECOND CAUSE OF ACTION

(Retaliation — New York City Administrative Code)

153. Plaintiff repeats and realleges each and every allegation contained above as if set forth again below.

154. By the acts and practices described above, Defendant has retaliated against Plaintiff in violation of the New York City Administrative Code, including, § 8-107(7).

155. Defendant acted with malice and/or reckless indifference to Plaintiff's statutorily protected rights.

156. Plaintiff is now suffering severe emotional and physical distress and irreparable damage to his career, reputation and future earning potential from Defendant's retaliatory conduct and will continue to do so unless and until the Court grants relief.

ATTORNEY'S FEES

157. Plaintiff is entitled to attorney's fees under the Administrative Code of the City of New York.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment and relief as follows:

a) An order awarding Plaintiff compensatory damages for Plaintiff's emotional distress, mental anguish, humiliation, damage to reputation and future earning potential, and loss of enjoyment of life, and any other appropriate relief necessary to make Plaintiff whole and compensate him for the civil rights violations described above;

b) An order awarding Plaintiff punitive damages for Defendant's willful and outrageous conduct in violation of Plaintiff's civil rights;

c) An order awarding Plaintiff the costs of this action; and

d) An order for such further relief as this Court may deem just and proper.

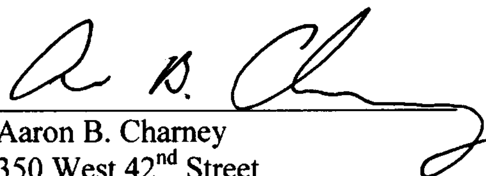
JURY DEMAND

Plaintiff demands a jury trial.

Dated: January 16, 2007
New York, New York

Respectfully submitted,

AARON B. CHARNEY



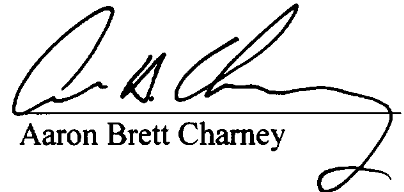
Aaron B. Charney
350 West 42nd Street
New York, New York 10036
(917) 576-6919
charneyab@hotmail.com

VERIFICATION

STATE OF NEW YORK)
)ss:
COUNTY OF NEW YORK)

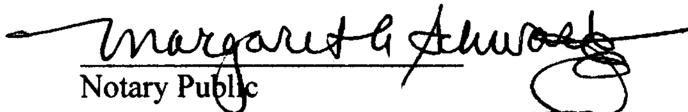
AARON BRETT CHARNEY, being duly sworn, deposes and says:

I am the Plaintiff in the above-entitled action. I know the contents of the above annexed Verified Complaint, and that the contents are true to my knowledge, except for those matters therein which are stated to be alleged upon information and belief, and as to those matters therein not stated upon knowledge, I believe them to be true.



Aaron Brett Charney

Sworn to me before this
16th day of January 2007



Notary Public

MARGARET A. SCHWARTZ
Notary Public, State of New York
Reg. No. 04SC6152068
Qualified in New York County
Commission Expires Aug. 23, 2010

ANNEX A

Partnership Agreement

SULLIVAN & CROMWELL

January 1, 1994

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AGREEMENT, dated as of January 1, 1994, constituting an amendment and restatement of the Partnership Agreement, dated as of January 1, 1992.

WITNESSETH:

WHEREAS, the parties hereto desire to continue in the practice of the law, under the following partnership agreement, the Partnership of SULLIVAN & CROMWELL (hereinafter referred to as the "Partnership") founded by Algernon Sydney Sullivan and William Nelson Cromwell on April 2, 1879,

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I

DURATION

SECTION 1.1. *Effectiveness.* This Agreement shall take effect as of January 1, 1994, except that any Partner 65 years of age or over at the date of this Agreement shall continue to be governed by the provisions of Sections 2.3, 8.1 and 8.2 of the Partnership Agreement, dated as of January 1, 1992, as heretofore in effect.

SECTION 1.2. *Duration.* The Partnership shall continue in the practice of the law under the firm name of Sullivan & Cromwell. The Partnership shall continue until dissolved pursuant to Section 9.1. Neither the termination of status of any Partner nor the admission of any new Partner shall terminate or dissolve the Partnership.

ARTICLE II

ADMISSION OF NEW PARTNERS AND TERMINATION OF STATUS AS PARTNER

SECTION 2.1. *New Partners.* Upon a proposal by the Committee, a majority in number of the Partners may admit a new Partner and determine the effective date of the new Partner's admission. Each new Partner shall sign a counterpart of this Agreement on file at the principal office of the Partnership in New York City and, upon signing the same, shall be a party to this Agreement as of the effective date of admission to the Partnership with the same force and effect as if one of the original parties to this Agreement. In the event of the readmission to the Partnership of a Former Partner who has received any termination payment pursuant to Section 7.1(b), the Committee may agree with the Partner that any subsequent termination payments made to the Partner pursuant to Section 7.1(b) and retirement annuities payable to the Partner and the Partner's Surviving Spouse pursuant to Section 8.1 will be less than those provided therein or will be subject to specified conditions.

SECTION 2.2. *Resignation.* Any Partner may resign from the Partnership at any time prior to the December 31 which is, or next follows, the Partner's 60th birthday. A Partner proposing to resign shall give the Committee six months' prior written notice thereof, which notice may be waived by the Committee.

SECTION 2.3. *Retirement.* A Partner shall retire on the December 31 which is, or next follows, the Partner's 67th birthday ("Normal Retirement Date"). A Partner may voluntarily retire (i) on the December 31 which is, or next follows, the Partner's 60th birthday or any date thereafter or (ii) with the consent of the Committee, on any date which is prior to the December 31 which is, or next follows, the Partner's 60th birthday ("Early Retirement Date"). A Partner proposing to retire prior to the December 31 which is, or next follows, the Partner's 65th birthday shall give the Committee six months' prior written notice thereof, which notice may be waived by the Committee. If on or after the December 31 which is, or next follows, a Partner's 60th birthday and before the Partner's Normal Retirement Date the Partner's status as a Partner shall terminate for any reason, the Partner shall be deemed to have retired voluntarily and the date of such termination of status shall be deemed to be the Partner's time of retirement and Early Retirement Date; *provided, however,* that the foregoing shall not apply to a Partner whose status as a Partner terminates by reason of death and who at the time of death either (i) has no Surviving Spouse or (ii) has by unrevoked written notice to the Committee elected that the Partner's Estate shall receive the amounts payable pursuant to Section 7.1(b), and such Partner's termination of status as a Partner shall not be deemed a retirement. As used in this Agreement, the terms "retire", "retired", "retirement" and "time of retirement" shall refer to a termination of status as a Partner pursuant to this Section, whether on an Early Retirement Date or on a Normal Retirement Date.

SECTION 2.4. *Termination.* (a) Upon a proposal by the Committee, a majority in number of the Partners may at any time terminate the membership in the Partnership of any Partner.

(b) If the Committee determines that a Partner has failed to observe or perform any of the Partner's agreements in Sections 5.3 and 5.4, the Committee, itself and without need for approval by a majority in number of the Partners, may forthwith terminate the Partner's membership in the Partnership.

SECTION 2.5. *Rights of Partners, Former Partners and Retired Partners.* (a) Subject to Article V, (i) each Partner shall share in the profits and losses of the Partnership as provided in Article III, (ii) a Partner whose status as a Partner is terminated otherwise than by retirement and that Partner's Estate shall be entitled solely to the payments provided by Article VII and (iii) a Partner who has retired or is deemed to have retired and that Partner's Estate and Surviving Spouse shall be entitled solely to the payments provided in Section 7.1(a) and Article VIII.

(b) In the event a Partner's status as a Partner is terminated pursuant to Section 2.4(b), a Partner fails to comply with Section 5.3 or 5.4 or a Former Partner or Retired Partner fails to comply with Section 5.4, all amounts, if any, which may at the time be, or which may thereafter become, payable under this Agreement to that Partner, that Partner's Estate or that Partner's Surviving Spouse may be withheld by the Partnership so long as the Committee may consider it advisable so to do in the interest of the Partnership to protect it against any present or prospective claim or any loss, damage or liability, actual or contingent, and that Partner, for that Partner's own, that Partner's Estate's and that Partner's Surviving Spouse's

account, hereby irrevocably empowers the Partnership to pay off, purchase, satisfy or otherwise settle or terminate any judgment, execution, levy, claim, receivership, judicial sequestration or other legal proceeding which in the Committee's opinion may be advisable.

(c) Upon any termination of a Partner's status as a Partner in the Partnership, the Partnership shall from time to time furnish to the Partner, the Partner's Estate or the Partner's Surviving Spouse a statement of the amounts due the Partner, the Partner's Estate or the Partner's Surviving Spouse, and any statements so furnished shall be final, binding and conclusive upon the Partner, the Partner's Estate and the Partner's Surviving Spouse and upon the other Partners.

ARTICLE III

PARTNERS' PARTICIPATIONS

SECTION 3.1. *Participation Generally.* With respect to each fiscal year, each Partner shall be entitled to that Partner's Percentage in the Net Profits, if any, for the fiscal year determined as provided in Sections 3.2 through 3.5. If in any fiscal year the Net Profits of the Partnership determined as provided in Section 3.5 shall result in a net loss, then such net loss shall be charged to the Partners in accordance with their respective Percentages in the Net Profits for such fiscal year, except that if the net loss is the result of one or more extraordinary events relating to prior periods, it shall be charged, in such proportions as the Committee shall determine in its discretion, to the Partners and Former Partners, provided that no Former Partner shall be charged in any period after such Former Partner's year of termination with any amount greater than the payment, if any, which would otherwise be made to that Former Partner or to that Former Partner's Estate in such period pursuant to Section 7.1(b).

SECTION 3.2. *Percentage.* For each fiscal year, the Percentage of a Partner shall be the Partner's Base Percentage for the fiscal year plus the amount, if any, of the Reserved Percentage allocated by the Committee to the Partner for the fiscal year.

SECTION 3.3. *Base Percentage.* A schedule designated "Participation Schedule No. 54—Effective January 1, 1994" is signed by a majority of the Committee, is on file at the principal office of the Partnership in New York City and shall be deemed a part of this Agreement. Such Participation Schedule sets forth, as of January 1, 1994, the names of the Partners, each Partner's Base Percentage and the Reserved Percentage constituting the unallocated percentage in the Net Profits. The profits to which the Schedule shall be applicable shall be the Net Profits of the Partnership for the fiscal year ending December 31, 1994 and, unless superseded as hereinafter provided, for fiscal years thereafter.

When any new Partner is admitted, the Committee shall determine the new Partner's Base Percentage in the Net Profits. The Committee may increase the Base Percentage in the Net Profits of any Partner. The Committee may decrease the Base Percentage in the Net Profits of any Partner with the Partner's consent or with the approval of a majority in interest of the Partners.

Whenever any new Partner shall be admitted or any change shall be made in any existing Partner's Base Percentage, a revised Participation Schedule shall be prepared to give effect thereto, and each succeeding Participation Schedule shall be designated by a successive

number and by the date as of which it becomes effective. Each revised Participation Schedule shall be signed by a majority of the Committee and filed with the counterpart of this Agreement on file at the principal office of the Partnership in New York City and, when so designated, signed and filed, shall become a part of this Agreement and shall supersede all prior Participation Schedules with respect to the Net Profits of the Partnership after the commencement of the fiscal year in which the effective date of such revised Participation Schedule falls.

SECTION 3.4. *Reserved Percentage.* Prior to the close of each fiscal year an allocation of the Reserved Percentage for such fiscal year shall be made by the Committee among the Partners or some of them, and a schedule setting forth the allocation shall be signed and filed in the same manner as a Participation Schedule. There may be included among the Partners to whom an allocation is made any Former Partner whose status as a Partner has terminated in such fiscal year.

SECTION 3.5. *Net Profits.* The Net Profits of the Partnership for any fiscal year shall be:
(a) the gross income received by the Partnership during the fiscal year,
(b) less the sum of
(i) all expenses and losses paid during, and other charges determined to be allocable to, the fiscal year (including guaranteed payments made pursuant to Section 3.6, termination payments allocable thereto pursuant to Section 7.1(b), the aggregate contribution by the Partnership for the account of Partners to the Retirement Plans and annuities paid pursuant to Article VIII, for such fiscal year); and
(ii) the amount, if any, of any fixed amount payments to be debited to the fiscal year pursuant to the last sentence of Section 7.1(a) and Section 8.2.
Expenses paid which are allocable to more than one period, and depreciation on depreciable assets in which the capital of the Partnership is invested, shall be charged as an expense in the amount claimed in the Partnership return of income for federal income tax purposes which covers such period.

SECTION 3.6. *Guaranteed Payments.* The Committee may determine that new Partners and Partners serving the Partnership in an office located outside the United States shall be entitled to a guaranteed payment without regard to the amount of their Percentages and, if so, the period and amount thereof.

ARTICLE IV

CAPITAL

SECTION 4.1. *Present Capital.* The capital of the Partnership on January 1, 1994 shall be the total of the Capital Accounts of the Partners as shown upon the books of the Partnership as of that date.

SECTION 4.2. *Additions to Capital.* It is intended that at all times the aggregate capital of the Partnership shall be adequate in the judgment of the Committee for the then current and prospective working capital and other requirements of the Partnership and that (subject

to variation deemed necessary by the Committee in particular circumstances) the amount in the Capital Account of each Partner shall be increased until it reaches the level established from time to time by the Committee for that Partner and other Partners with comparable position in the Partnership. To this end, (a) the Committee shall determine for each fiscal year the amount, if any, of each Partner's distributive share for that fiscal year which shall be credited to the Partner's Capital Account, and (b) the amount, if any, so determined shall be withheld from the Partner's share of distributions for that fiscal year and credited to such Partner's Capital Account.

SECTION 4.3. *Withdrawal.* No Partner shall have any right to make any withdrawal from such Partner's Capital Account except (a) as provided in Section 7.1(a) upon termination of status as a Partner or (b) as may be consented to by the Committee.

ARTICLE V

CERTAIN OBLIGATIONS OF PARTNERS, FORMER PARTNERS, RETIRED PARTNERS AND SURVIVING SPOUSES

SECTION 5.1. *Compensation for Professional and Other Services.* All compensation for professional or other services rendered prior to termination of status as a Partner (including executors', trustees' and other fiduciary commissions but excluding directors' fees and compensation for writings and speeches, which shall be considered personal emoluments, and excluding receipts of the Partnership's associated Australian office in which the Partnership may not lawfully share) received by any Partner, any Former Partner or any Retired Partner, or their Estates, shall belong and be paid to the Partnership. No compensation received by any Former Partner, any Retired Partner or their Estates for services rendered after termination of status as a Partner shall belong or be paid to the Partnership, except that there shall belong and be paid to the Partnership any fiduciary commissions in respect of matters which the Committee shall determine (i) are essentially Partnership rather than family matters or (ii) are essentially not family matters and have been received under or as a result of any instrument executed prior to such termination of status or, in the case of a Retired Partner, an instrument executed after such termination of status which is a modification or amendment to or replacement of an instrument which was in force or effect prior to such termination of status and was prepared by the Partnership.

SECTION 5.2. *Partnership Obligations.* No Partner shall create or incur any indebtedness or other obligation of any kind, enter into any contract or make any outlay, in the name of or in behalf of the Partnership, without the consent or approval of the Committee or of a Partner thereunto authorized by the Committee. The Partnership will continue to reimburse Partners for ordinary and necessary expenses incurred in accordance with the usages and practices of the Partnership. However, under such usages and practices each Partner is expected to incur certain of such expenses and bear the cost thereof without reimbursement.

SECTION 5.3. *Other Activities.* Each Partner agrees to refrain from stock speculation or other speculative or business operations of a nature or character which the Committee may consider might, in fact or in the estimation of clients, operate to impair the Partner's professional judgment and service to the Partnership, distract the Partner's attention from profes-

sional matters or otherwise impair or affect the Partner's professional standing and reputation in the community. Each Partner agrees at all times so to order the Partner's personal affairs as to avoid the risk of any financial embarrassment either to the Partner or to the Partnership.

SECTION 5.4. *Interests of Partners, Former Partners and Retired Partners.* It is expressly and mutually agreed that the interest hereunder of each Partner, Former Partner and Retired Partner is personal to the Partner, Former Partner or Retired Partner, as the case may be, and is not, and shall not be, assignable or transferable to any party whatsoever, except the right to receive any payments due after death under Section 7.1, which right may be freely disposed of by Will, in which case payment will be made in accordance with the Will, anything in Section 7.1 to the contrary notwithstanding. Except as aforesaid, each Partner, Former Partner and Retired Partner agrees not to assign or transfer or attempt to assign or transfer any part of such interest. No such interest shall be subject to judgment, execution, levy, claims, receiverships or judicial sequestration or other legal proceedings as against the Partnership or any Partners thereof or its property, affairs, good will, if any, or other assets.

SECTION 5.5. *Conclusiveness of Partnership Records and Committee Determinations.* Each Partner, Former Partner and Retired Partner, for the Partner, the Partner's Estate and the Partner's Surviving Spouse, accepts as conclusive and final, for all purposes of this Agreement and of the Partner's relationship to the Partnership, the books and records of the Partnership and the results thereof and all determinations of the Committee under or pursuant to this Agreement, waiving and renouncing any right to an accounting, and agrees that under no circumstances shall the Partnership be required to close its books otherwise than at the close of a fiscal year.

SECTION 5.6. *Practice of Law.* Each Partner agrees that if the Partner resigns or retires and, prior to receipt of all termination payments pursuant to Section 7.1(b) or in any fiscal year during retirement, without the written approval of the Committee, (a) personally provides legal advice or services to any client which was a client of the Partnership at any time within two years prior to the Partner's termination of status as a Partner or (b) engages in the private practice of law (alone or in partnership with others) within a 50-mile radius of any office of the Partnership or its associated Melbourne or Tokyo offices in existence at the time of such Partner's termination of status as a Partner, no further payments shall be made (i) to the fullest extent permitted by law, to the Former Partner or Former Partner's Estate pursuant to Section 7.1(b) or (ii) to the Retired Partner or Retired Partner's Surviving Spouse pursuant to Section 8.1 or 8.2.

ARTICLE VI

MANAGEMENT

SECTION 6.1. *Committee.* There shall be a Committee of the Partnership, which shall consist of at least five Partners. The Committee shall have the power from time to time to determine its membership and select from its membership a Chairman, who shall be the senior partner of the Partnership, and one or more Vice Chairmen, who may act in the

absence of the Chairman. A member may resign at any time. The Committee shall act by a majority of its then members at a meeting or in writing.

The Committee as of January 1, 1994, consists of John E. Merow, Chairman, M. Bernard Aidinoff, W. Loeber Landau, Ricardo A. Mestres, Jr., William J. Williams, Jr., Willard B. Taylor, John L. Warden, H. Rodgin Cohen and Benjamin F. Stapleton. As and when changes occur in the membership of the Committee, a schedule of the revised Committee membership, stating the effective date, shall be signed by a majority of the then members of the Committee and filed at the principal office of the Partnership in New York City, and the schedule so signed and filed shall become part of this Agreement from its effective date.

SECTION 6.2. *Powers of Committee.* The Committee shall have power to manage the Partnership and to act for and on behalf of the Partnership in all matters relating to the conduct of its affairs and finances and the carrying on of its practice, including, without limitation, the power, in its sole discretion, to make the various determinations and agreements and to take the various actions to be made or taken under this Agreement. The general powers given to the Committee by this Section 6.2 shall be limited only by (a) the power of a majority in number or majority in interest of the Partners to act (on the proposal of the Committee or otherwise) as provided in specific provisions of this Agreement (which power shall be deemed to be exclusive in respect of such actions) and (b) the limitations in this Agreement on the power of the Committee to act without the consent of a particular Partner or other person specifically to be affected by a proposed action and shall not be limited to or by the specific powers elsewhere given to the Committee.

SECTION 6.3. *Delegation and Consultation.* In exercising its powers, the Committee may establish such committees of Partners with such delegated authority, and shall consult with such other Partners, as it deems appropriate, having regard to the particular area or matter involved and the proper distribution of responsibility for day-to-day action and the general morale of the Partnership.

SECTION 6.4. *Fees and Distributions.* The Committee in its sole discretion shall have the right to review and determine the amount of any fee to be charged by the Partnership for services and to determine the time or times for billing any fee. The Committee shall determine the time and amount of the distribution of Net Profits.

SECTION 6.5. *Books and Records.* Proper books of account and records of the accounts and affairs of the Partnership shall be kept in such manner as may be approved by the Committee. The books shall be maintained on the basis of a fiscal year ending on December 31.

SECTION 6.6. *Bank Accounts.* The Partnership shall keep its bank accounts in such banks as the Committee may from time to time designate, and checks against such accounts shall be signed only by such Partner or Partners or employee or employees of the Partnership as the Committee, or any Partner thereunto authorized by the Committee, shall from time to time designate.

SECTION 6.7. *Safe Deposit Boxes.* The Partnership may rent such safe deposit boxes as the Committee may from time to time deem necessary, and access to such safe deposit boxes shall be granted only to such Partner or Partners or employee or employees as the Committee, or any Partner thereunto authorized by the Committee, shall designate.

ARTICLE VII

TERMINATION OF STATUS AS PARTNER

SECTION 7.1. *Payments on Termination of Status.* In the event that any Partner's status as a Partner shall terminate, the Partner or the Partner's Estate shall be entitled to the following payments (which shall be in final settlement) at the following times:

(a) Within 90 days after the close of the fiscal year in which such termination of status occurs (the "Year of Termination"), there shall be paid to the Partner or Partner's Estate an amount equal to

(i) the amount of the Partner's Percentage in the Net Profits of the Partnership for the Year of Termination (calculated as provided in Section 11.2 if applicable) and not theretofore paid or credited to such Partner; plus

(ii) the amount to the credit of the Partner's Capital Account on the books of the Partnership on the last day of the month in which occurs the termination of status as a Partner (the "Date of Termination"); plus

(iii) any other credit balances to the Partner's account on the books of the Partnership on the Date of Termination not included in the foregoing;

provided, however, that

(iv) if the amounts theretofore paid or credited to the Partner in respect of Net Profits for the Year of Termination shall prove to be in excess of the amount to which the Partner was entitled under the preceding clause (i), the excess shall be debited to the Partner's account; and

(v) any debits to the Partner's account, whether resulting from the operation of the preceding clause (iv) or otherwise, shall be deducted from the amount to be paid by the Partnership pursuant to paragraphs (a) and (b) of this Section 7.1, or from the amounts to be paid pursuant to Section 8.1 or 8.2, as the Committee at its option may elect.

In lieu of the payments to be made to a Former Partner pursuant to the foregoing provisions of this paragraph (a), the Committee on behalf of the Partnership may agree with the Former Partner upon a fixed amount to be paid by the Partnership in final settlement, either in a lump sum or in installments.

(b) Subject to the limitations contained in paragraph (c), there shall be paid to a Former Partner or Former Partner's Estate a termination payment in an amount equal to the excess, if any, of (i) 125% of the average of the Former Partner's share of the net profits of the Partnership and the amount of any guaranteed payment received by the Former Partner for the last three full fiscal years ending on or before the Former Partner's Date of Termination (or such fewer number of years as the Partner was a Partner) under the partnership agreements as then in effect over (ii) the sum of (x) the lump sum cash value on the Date of Termination of the Former Partner's interest in the Retirement Plan (1968) (excluding amounts attributable to voluntary contributions other than the voluntary contribution, if any, of the Former

Partner made on October 1, 1980, but including amounts attributable to contributions by the Partnership on behalf of the Partner under Section 401(k) of the Internal Revenue Code), (y) the present value on the Date of Termination of the single life annuity payable to the Former Partner (or, if the termination of status as a Partner was the result of death, of the survivor annuity, if any, payable to the Former Partner's Surviving Spouse) under the Retirement Plan (1988) and (z) the value of any amounts previously paid out of the Retirement Plan (1968) and/or Retirement Plan (1988) in respect of the Partner's interests therein as required by a Qualified Domestic Relations Order or otherwise required by law as adjusted for any appreciation and/or depreciation that would have occurred therein to the Date of Termination had such amounts not been paid out of such Plans. Such values shall be determined by the Committee. The termination payment shall be paid to the Former Partner or Former Partner's Estate at such time or times, and in one payment or in such installments, as the Committee shall determine; *provided, however*, that, subject to deferral as provided in paragraph (c), the entire amount payable shall be paid not later than the end of the fifth full fiscal year following the Date of Termination, and by not later than the end of each full fiscal year following the Date of Termination there shall have been paid an aggregate amount equal to the total amount payable hereunder multiplied by the product of the number of full fiscal years since the Date of Termination and 20%; and *provided, further*, that in the event that a portion of the termination payments required to be paid in any fiscal year may be subject to deferral as provided in paragraph (c), the payments may be made within 60 days following the end of such fiscal year.

(c) In determining the termination payment to be made to a particular Former Partner or Former Partner's Estate:

(i) the amount referred to in clause (i) of paragraph (b) shall not exceed $1,200,000, and

(ii) in the event that a Partner's status as a Partner terminates (other than by reason of death or total disability as determined in accordance with any disability insurance policy made available to the Partners by the Partnership) before that Partner has been a Partner for 10 full fiscal years, the amount referred to in clause (i) of paragraph (b) (as the same may be limited by clause (i) of this paragraph) shall be reduced by a percentage equal to 10% multiplied by the number of full fiscal years by which 10 full fiscal years exceed the number of full fiscal years that such Former Partner was a Partner.

In the event that the aggregate amount of termination payments otherwise payable to all Former Partners and Former Partners' Estates in respect of a fiscal year (including any amounts carried over from prior fiscal years as hereinafter provided) would exceed 5% of the Partnership's Net Income Available for Termination Payments for the fiscal year, they shall be paid to the extent of an amount equal to 5% of such Net Income Available for Termination Payments, pro-rated in accordance with the amounts otherwise payable (without priority between amounts carried over from the prior year and amounts otherwise payable in respect of such fiscal year), and the unpaid balance as to each Former Partner or Former Partner's Estate shall be carried over and become payable in respect of the next succeeding fiscal year. In the event that the Partnership makes a termination payment to a Former Partner or Former Partner's Estate in respect of a fiscal year prior to determination of the Net Income Available for Termination Payments for such fiscal year, (i) it shall obtain

from the Former Partner or Former Partner's Estate an undertaking to repay promptly to the Partnership any portion thereof subsequently determined to have been in excess of the amount permitted under this Section unless (x) the Partner resigned to enter government service and the Committee determines that such undertaking might be inconsistent with such Partner's entering government service or (y) the Committee determines that such undertaking could result in hardship, (ii) the full amount so paid (whether or not subject to an undertaking to repay) shall be counted for the purpose of determining the aggregate termination payments payable in respect of such fiscal year, and (iii) an amount equal to any amount repaid to the Partnership shall be carried forward for future payment as provided in paragraphs (b) and (c) of this Section 7.1.

(d) The rights of Former Partners, Retired Partners and their Estates under this Section 7.1 are subject to Sections 2.5 and 3.1, Article V and Section 11.2.

SECTION 7.2. *No Other Interest.* Neither a Partner nor a Partner's Estate shall have any interest that survives the Partner's termination of status as a Partner in the good will, if any, of the Partnership or its records and files or in any reserve upon the books of the Partnership, nor shall a Partner have any right to the use of the firm name.

ARTICLE VIII

RETIREMENT

SECTION 8.1. *Payments to Retired Partners and Their Surviving Spouses.* (a) Following retirement, a Retired Partner (or, in the event of death, the Retired Partner's Estate) shall be paid the amounts provided for in Section 7.1(a) at the time specified therein.

(b) A Retired Partner shall be entitled to receive in each fiscal year for life a retirement annuity of $225,000 for each of fiscal years 1994, 1995 and 1996 and $255,000 for each fiscal year thereafter, which amounts may not be increased without the authorization of the Committee and the approval of a majority in number of the Partners. The amount of the retirement annuity payable to a Retired Partner pursuant to the preceding sentence for each fiscal year shall be reduced by the sum of (i) the annual amount of the straight life annuity for a man or woman, as the case may be, in good health of the same age as the Retired Partner which the Committee determines to be the actuarial equivalent of the value at retirement date of the Retired Partner's interest under the Retirement Plan (1968) (without taking into account any amounts attributable to the voluntary contributions of the Retired Partner other than the voluntary contribution, if any, of such Partner made on October 1, 1980, but taking into account any amounts attributable to contributions by the Partnership on behalf of the Partner under Section 401(k) of the Internal Revenue Code), (ii) the annual amount of the straight life annuity payable to the Retired Partner under the Retirement Plan (1988), and (iii) the annual amount of the straight life annuity for a man or woman, as the case may be, in good health of the same age as the Retired Partner which the Committee determines to be the actuarial equivalent at retirement date of any amounts previously paid out of the Retirement Plan (1968) and/or Retirement Plan (1988) in respect of the Partner's interests therein as required by a Qualified Domestic Relations Order or otherwise required by law as adjusted for any appreciation and/or depreciation that would have occurred therein

to the retirement date had such amounts not been paid out of such Plans. Notwithstanding the foregoing provisions of this paragraph (b) and in lieu thereof, a Partner who with the consent of the Committee retires prior to the December 31 which is, or next follows, the Partner's 60th birthday shall be entitled to such retirement annuity as shall be agreed with the Committee at the time of such retirement, *provided, however,* that the amount of such retirement annuity shall not, without the approval of a majority in number of the Partners, exceed the amount of the retirement annuity payable pursuant to the foregoing provisions of this paragraph (b).

(c) In lieu of the retirement annuity provided by paragraph (b), a Partner who has not elected that that Partner's Estate shall receive the amount payable pursuant to Section 7.1(b) (as permitted by Section 2.3) may, by written notice to the Committee prior to retirement, elect that the Partner and the Partner's Surviving Spouse shall receive a joint and survivor annuity of the kind specified by the Partner which the Committee determines to be the actuarial equivalent of the amount to which the Retired Partner would have been entitled at retirement under paragraph (b). If (i) on or after the December 31 which is, or next follows, a Partner's 60th birthday and before the Partner's Normal Retirement Date the Partner dies leaving a Surviving Spouse, (ii) the Partner has not elected that that Partner's Estate shall receive the amount payable pursuant to Section 7.1(b) and (iii) either (x) the Partner has not elected that the Partner and that Partner's Surviving Spouse shall receive a joint and survivor annuity as contemplated by the preceding sentence or (y) the Partner has elected that the Partner and the Partner's Surviving Spouse shall receive a joint and survivor annuity as contemplated by the preceding sentence, with the amount of the annuity payable to the Retired Partner's Surviving Spouse being less than the amount payable to the Retired Partner, the Partner shall be deemed to have elected pursuant to the preceding sentence a joint and survivor annuity, with the amount of the annuity payable to the Retired Partner's Surviving Spouse being equal to the amount payable to the Retired Partner.

(d) For any fiscal year the total amount of all annuities payable by the Partnership pursuant to this Section and all annuities which, but for any agreements entered into pursuant to Section 8.2, would have been payable pursuant to this Section shall not exceed 10% of the Distributable Net Income of the Partnership for the fiscal year. In the event that the foregoing 10% limitation becomes applicable for any fiscal year, the annuity payable for the fiscal year to each Retired Partner and Surviving Spouse of a Retired Partner shall be reduced by the Retired Partner's or Surviving Spouse's proportionate share of the excess based on the proportion that the amount which would have been payable during the fiscal year to such Retired Partner or Surviving Spouse pursuant to this Section (but for the 10% limitation) bears to the aggregate amount which would have been payable during the fiscal year to all Retired Partners and Surviving Spouses pursuant to this Section (but for the 10% limitation and any agreements in lieu of annuities entered into pursuant to Section 8.2). For the purpose of applying this paragraph to Retired Partners and Surviving Spouses of deceased Retired Partners receiving annuities under this Agreement, it shall be assumed that all Retired Partners and Surviving Spouses of deceased Retired Partners receiving retirement annuities under any of the partnership agreements of the Partnership are receiving the retirement annuities to which they would be entitled if such Retired Partners had retired in accordance with the provisions of this Agreement.

(e) If the right to receive an annuity pursuant to this Section shall begin or end during a fiscal year, the annuity shall be payable only for the applicable portion of such fiscal year. The Committee in its sole discretion may, at any time or from time to time, determine (i) the amount of any annuity payable for a portion of a fiscal year and (ii) when and how annuities

payable for any fiscal year or portion of a fiscal year are to be paid, including, but without limitation, the amounts, and times for payment, of installments or estimated installments thereof.

SECTION 8.2. *Settlement.* For the purpose of enabling a Partner or a Retired Partner to enter government service, the Committee on behalf of the Partnership may agree with the Partner or Retired Partner to pay the Partner or Retired Partner, in lieu of the annuities payable pursuant to Section 8.1, a fixed dollar amount, either in a lump sum or in installments, on such terms and conditions as the Committee shall in its discretion determine; *provided, however,* that in entering into any such agreement, the Committee shall take into account the reductions in the retirement annuities otherwise payable to the Partner and the Partner's Surviving Spouse as a result of paragraphs (b) and (d) of Section 8.1 and shall require of such Partner or Retired Partner an agreement not to compete with the Partnership similar in scope to that contained in Section 5.6 unless the Committee determines that such an agreement would effectively preclude the government from employing such Partner or Retired Partner. The amount of any fixed dollar payment, payable in a lump sum or in installments, shall be debited, in whole or in part, as determined by the Committee in its sole discretion, to the profit and loss account for the fiscal year in which such agreement becomes effective and one or more subsequent fiscal years. No Retired Partner, or Surviving Spouse of a Retired Partner, if the Retired Partner has entered into an agreement pursuant to this Section shall be entitled to receive any annuity pursuant to Section 8.1.

SECTION 8.3. *Limitations.* (a) The rights of Retired Partners and deceased Retired Partners' Surviving Spouses under this Article VIII are subject to Sections 2.5(b) and 7.1(a), Article V and Section 11.2.

(b) Except as provided in Sections 8.1 and 8.2, as limited by this Section 8.3, and in Section 8.4, neither a Retired Partner nor a Retired Partner's Estate or Surviving Spouse shall be entitled to receive any payments whatever from the Partnership, whether on account of fees received by the Partnership or otherwise.

SECTION 8.4. *Services After Retirement.* A Retired Partner shall not be expected, and shall have no obligation, to render any services to the Partnership. The Partnership may, however, with a Retired Partner's agreement, retain the services of the Retired Partner for a particular matter or for any particular period of time on such terms and conditions as the Committee in its sole discretion shall determine.

ARTICLE IX

DISSOLUTION

SECTION 9.1. *Dissolution.* The Partnership may be dissolved upon a proposal by the Committee by decision of a majority in interest of the Partners. In the event of the dissolution of the Partnership, the Committee shall be the liquidating Partners.

SECTION 9.2. *Firm Name, Good Will, Etc.* In the event of the dissolution of the Partnership, any successor partnership which includes among its members a majority in interest

of the Partners, including among their number a majority of the then members of the Committee, shall have the sole right to the use of the firm name and to its good will, if any, and its records and files, and if there shall not be any successor partnership so constituted, no one shall have the right to use the firm name or to succeed to its good will and the records and files shall be disposed of as shall be determined by the liquidating Partners.

ARTICLE X

DEFINITIONS

Unless the context otherwise requires, the following terms shall have the meanings assigned to them in the Sections referred to below:

Term	Section
Base Percentage	3.3
Committee	6.1
Date of Termination	7.1(a)
Early Retirement Date	2.3
Net Profits	3.5
Normal Retirement Date	2.3
Participation Schedule	3.3
Percentage	3.2
Reserved Percentage	3.3
Year of Termination	7.1(a)

Unless the context otherwise requires, the following terms shall have the meanings assigned to them below:

"Distributable Net Income" of the Partnership for any fiscal year shall mean the net income for such fiscal year, as reported on by the Partnership's independent public accountants, before the deduction of (i) any termination payments allocable to such fiscal year pursuant to Section 7.1(b), (ii) any annuities paid for the fiscal year pursuant to Section 8.1 and (iii) the amount, if any, of any fixed amount payments debited to the fiscal year pursuant to the last sentence of Section 7.1(a) and Section 8.2.

"Estate" of a person shall include, but not be limited to, the person's legal representatives and each trustee and beneficiary, if any, specified in the person's Will to receive all or any part of the payments, if any, due under Section 7.1 after the person's death.

"fees" shall include all revenues for services rendered, and all executors', trustees' and other fiduciary commissions, received by the Partnership.

"fiscal year" shall mean each 12-month period ending December 31.

"Former Partner" shall mean a person who was a Partner at any time before, at or after the date of this Agreement and whose status as a Partner was or is terminated other than by retirement.

"majority in interest" of the Partners shall mean as of any time Partners having at such time a majority of the aggregate of the Base Percentages.

"majority in number" of the Partners shall mean as of any time a majority of the persons who are then the Partners of the Partnership.

"Net Income Available for Termination Payments" for any fiscal year shall mean the net income of the Partnership for such fiscal year, as reported on by the Partnership's

independent public accountants, before the deduction of (i) any guaranteed payments made pursuant to Section 3.6 and (ii) any termination payments allocable to such fiscal year pursuant to Section 7.1(b).

"Partner" shall mean at any time a person who is at the time a member of the Partnership.

"Partnership" shall have the meaning set forth in the recital to this Agreement.

"retire", "retired", "retirement" and "time of retirement" shall have the meanings set forth in Section 2.3.

"Retired Partner" shall mean a person who was a Partner at any time before, at or after the date of this Agreement and whose status as a Partner was or is terminated by retirement.

"Retirement Plan (1968)" shall mean the Retirement Plan of Sullivan & Cromwell, adopted by the Partnership, effective January 1, 1968, for the benefit of certain of its legal staff, as in effect from time to time.

"Retirement Plan (1988)" shall mean the Defined Benefit Plan, adopted by the Partnership, effective December 1, 1988, for the benefit of its Partners, as in effect from time to time.

"Retirement Plans" shall mean the Retirement Plan (1968) and the Retirement Plan (1988).

"Surviving Spouse" shall mean a spouse who is married to and living with a Partner as the spouse of the Partner at the time of the retirement of the Partner and continuously thereafter until the death of the Partner.

"termination of status" as a Partner (and variants thereof such as "a Partner whose status as a Partner has terminated") shall mean ceasing to be a Partner for any reason whatever, including death while a Partner, resignation pursuant to Section 2.2, retirement pursuant to Section 2.3 and termination of membership in the Partnership pursuant to Section 2.4.

ARTICLE XI

MISCELLANEOUS

SECTION 11.1. *Applicability to Former Partners and Retired Partners.* The rights and obligations of Former Partners, Retired Partners, their Estates and their Surviving Spouses shall be determined by the partnership agreement of the Partnership in effect at the time the status of the Former Partner or Retired Partner as a Partner terminated, as the same may be affected by Section 11.1 of the Partnership Agreement, dated as of January 1, 1989.

SECTION 11.2. *Changes During a Fiscal Year.* In order to obviate the closing of the books on other than a year-end basis, in the event of termination of a Partner's status as a Partner after the commencement of a fiscal year and prior to December 1 of the fiscal year, the Net Profits for the Year of Termination (for the purpose of Section 7.1 (a)(i)) and the amount of any guarantee pursuant to Section 3.6 with respect to the Year of Termination shall be such amounts for the entire Year of Termination multiplied by a fraction of which the numerator is the number of months in the Year of Termination to the Date of Termination and the denominator is 12. In the event of termination of a Partner's status as a Partner after the commencement of a fiscal year and prior to December 1 of the fiscal year,

there shall be added to the Reserved Percentage for the Year of Termination a part of the Partner's Base Percentage for the Year of Termination determined by multiplying the Base Percentage by a fraction of which the numerator is the number of months remaining in the Year of Termination after the Date of Termination and the denominator is 12.

SECTION 11.3. *Governing Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

SECTION 11.4. *Interpretation.* The construction, interpretation or application of this Agreement or any of its provisions by the Committee shall be finally and conclusively binding upon the parties hereto and their respective Estates and Surviving Spouses, even though the members of the Committee should be personally interested in or affected by such construction, interpretation or application.

SECTION 11.5. *Amendment.* This Agreement may be amended by a written instrument executed in one or more counterparts by a majority in interest of the Partners; *provided, however,* that (a) no amendment shall result in a reduction in the amounts receivable in accordance with the provisions of Article VIII by any Retired Partner, the Surviving Spouse of any deceased Retired Partner or any Partner who has become entitled (without the consent of the Committee) to retire on an Early Retirement Date without the consent of the person affected and (b) no provision requiring the approval of a majority in number of the Partners shall be amended without the approval of such a majority. For the purpose of the foregoing sentence, the consent by a Partner or Retired Partner during the Partner's lifetime shall be binding upon the Partner's Surviving Spouse. Termination pursuant to Section 2.4 of the membership in the Partnership of a Partner who has become entitled to retire on an Early Retirement Date and application of the provisions of Section 2.5(b) to the Partner or a Retired Partner shall not be deemed to be a reduction in the amounts receivable by the Partner or Retired Partner in accordance with the provisions of Article VIII. Any amendment to this Agreement shall be set forth in an amendatory or supplemental agreement which shall be filed at the principal office of the Partnership in New York City.

SECTION 11.6. *Obligations and Benefits.* This Agreement shall be binding upon and enure to the benefit of the parties hereto and their respective Estates and Surviving Spouses.

SECTION 11.7. *Counterparts.* This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original.

IN WITNESS WHEREOF, each of the parties hereto has executed this Agreement as of the day and year first above written.

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ANNEX B

Charney, Aaron Brett

From: Kotran, Stephen

Sent: Thursday, January 12, 2006 3:34 PM

To: Grinberg, Gera; Charney, Aaron Brett

I am in the middle of an interesting and complicated $550 million acquisition by Prudential of Allstate variable annuity business. Barb Burns is the senior and Maria Corsaro is the more junior associate. As it happens, both will be leaving on vacation around January 26 through mid February.

We won the auction and Pru and the seller just entered into an exclusivity agreement to paper over the deal which expires on Feburary 8.

In other words, Barb and Maria are going to be stepping out during what looks to be the last 10 critical days.

Any interest in signing on to take over for them when they go on vacation. I know covering for other associates on vacation is thankless work. But, in this case, you'll be coming in just for the good part. Also, the timing works well to bridge to hopefully what will be more activity on Kodak and perhaps [redacted] come February. We would hand all the post-signing/pre-closing responsibility back to Barb and Maria when they return from vacation.

We could also probably arrange to have you begin taking over some responsibility before the 26th if your schedules are otherwise not that heavy between now and then.

Let me know what you think.

ANNEX C

Charney, Aaron Brett

From: Kotran, Stephen
Sent: Monday, July 24, 2006 7:30 AM
To: Grinberg, Gera; Charney, Aaron Brett

Gera and Aaron::

At Sharon's request I gave her an estimate of where our fees are at to date. This provoked the predictable response that our current fee accrual is already pretty high and an exhortation that we do whatever we can to keep fees down. This is par for the course for Kodak.

I am comfortable that we have been very efficient to date and that the fee accrual to date is the product of the work that Kodak has asked us to do and the lengthy and cumbersome process that Kodak is engaging in. So I don't think there is much we can do differently than what we have been doing.

The one thing we should do, however, is continue to be as disciplined as possible about exactly which of the S&C people need to be on which of the myriad planning, update and drafting calls. Let's talk at the beginniing of each week about the cals scheduled for that week and decide how to staff each call. Generally, I think the two of you will need to be on a lot of the calls. But we should strive to avoid having me, Orit, the other junior or summer associates and the various specialists on the calls unless their active involvement is necessary.

Thanks.

Steve