

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

	X	
CITY OF HIALEAH EMPLOYEES'	:	Civil Action No.
RETIREMENT SYSTEM, Individually and on	:	
Behalf of All Others Similarly Situated,	:	<u>CLASS ACTION</u>
	:	
Plaintiff,	:	COMPLAINT FOR VIOLATION OF THE
	:	FEDERAL SECURITIES LAWS
vs.	:	
	:	
GENWORTH FINANCIAL, INC., MICHAEL	:	
D. FRAIZER and MARTIN P. KLEIN,	:	
	:	
Defendants.	:	
	:	
	X	<u>DEMAND FOR JURY TRIAL</u>

Plaintiff, individually and on behalf of all others similarly situated, by plaintiff's undersigned attorneys, for plaintiff's complaint against defendants, alleges the following based upon personal knowledge as to plaintiff and plaintiff's own acts, and upon information and belief as to all other matters based on the investigation conducted by and through plaintiff's attorneys, which included, among other things, a review of Securities and Exchange Commission ("SEC") filings by Genworth Financial, Inc. ("Genworth" or the "Company"), as well as media reports about the Company and conference call transcripts. Plaintiff believes that substantial additional evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

NATURE OF THE ACTION

1. This is a securities class action on behalf of all persons who purchased the securities of Genworth between February 3, 2012 and April 17, 2012, inclusive (the "Class Period"), against Genworth and certain of its current and former officers and/or directors for violations of the Securities Exchange Act of 1934 (the "1934 Act"). These claims are asserted against Genworth and certain of its officers and/or directors who made materially false and misleading statements during the Class Period in press releases, analyst conference calls, and filings with the SEC.

2. Genworth is a financial security company. The Company provides insurance, wealth management, investment and financial solutions.

3. Throughout the Class Period, defendants violated the federal securities laws by disseminating false and misleading statements to the investing public. As a result of defendants' false and misleading statements, the Company's stock traded at artificially inflated prices during the Class Period, trading as a high of \$9.54 per share on February 21, 2012.

4. On April 17, 2012, Genworth issued a press release entitled "Genworth Financial Announces New Timing For Planned Minority Initial Public Offering (IPO) of Australian Mortgage Insurance Business," which stated in part:

Genworth Financial, Inc. today announced a new timeframe for completing its planned minority initial public offering (IPO) of up to 40 percent of its Australian mortgage insurance (MI) business. Genworth is now seeking to complete the IPO in early 2013, subject to market conditions, valuation considerations including business performance, and regulatory approvals. The Australian MI capital ratio remains sound, and the company is continuing the IPO regulatory review process. Genworth had previously targeted a second quarter 2012 IPO.

This new timeframe primarily reflects recent business performance in Australia. For the 2012 first quarter, the company expects to report elevated loss experience in Australia as lenders accelerated the processing of later-stage delinquencies from prior years through to foreclosure and claim at a higher rate and severity than expected, particularly in coastal areas of Queensland that experienced natural catastrophes and regional economic slowdowns and among certain groups of small business owners and self-employed borrowers. First quarter experience is anticipated to result in a modest first quarter loss in the Australian MI business. A detailed report on Genworth's first quarter financial results will be provided on the company's May 2, 2012 earnings call.

5. On this news, the Company's stock price dropped \$1.83 per share on April 18, 2012 to close at \$5.87 per share, a one-day decline of nearly 24% on volume of 75.3 million shares.

6. As a result of defendants' false and misleading statements, Genworth common stock traded at artificially inflated prices during the Class Period. However, after the above-alleged revelations of the true but undisclosed facts seeped into the market, the Company's common stock experienced exorbitant selling pressure, sending its price down nearly 39% from its Class Period high.

JURISDICTION AND VENUE

7. The claims asserted herein arise under §§10(b) and 20(a) of the 1934 Act (15 U.S.C. §§78j(b) and 78t(a)) and Rule 10b-5 (17 C.F.R. §240.10b-5) promulgated thereunder by the SEC. Jurisdiction is conferred by §27 of the 1934 Act (15 U.S.C. §78aa).

8. Venue is proper pursuant to §27 of the 1934 Act, as many of the acts and conduct complained of herein occurred in this District. Genworth maintains an office in this District.

9. In connection with the acts and conduct alleged herein, defendants, directly and indirectly, used the means and instrumentalities of interstate commerce, including, but not limited to, the United States mails, interstate telephone communications and the facilities of the national securities exchanges and markets.

PARTIES

10. Plaintiff City of Hialeah Employees' Retirement System purchased the securities of Genworth during the Class Period as set forth in the certification attached hereto and was damaged as a result of defendants' wrongdoing as alleged in this complaint.

11. Defendant Genworth is a financial security company.

12. Defendant Michael D. Fraizer ("Fraizer") was, at all relevant times during the Class Period, President and Chief Executive Officer ("CEO") of Genworth. Defendant Fraizer resigned from the Company in May 2012.

13. Defendant Martin P. Klein ("Klein") is, and at all relevant times during the Class Period was, Chief Financial Officer ("CFO") and Executive Vice President of Genworth.

14. The defendants identified in ¶¶12-13 are referred to herein as the "Individual Defendants."

15. The Individual Defendants, because of their positions with the Company, possessed the power and authority to control the contents of Genworth's quarterly reports, press releases and presentations to securities analysts, money and portfolio managers and institutional investors, *i.e.*, the market. They were provided with copies of the Company's reports and press releases alleged herein to be misleading prior to or shortly after their issuance and had the ability and opportunity to prevent their issuance or cause them to be corrected. Because of their positions with the Company, and their access to material non-public information available to them but not to the public, the Individual Defendants knew that the adverse facts specified herein had not been disclosed to and

were being concealed from the public and that the positive representations being made were then materially false and misleading. The Individual Defendants are liable for the false and misleading statements pleaded herein.

FRAUDULENT SCHEME AND COURSE OF BUSINESS

16. Defendants are liable for: (i) making false and/or misleading statements; or (ii) failing to disclose adverse facts known to them about Genworth. Defendants' fraudulent scheme and course of business that operated as a fraud or deceit on purchasers of Genworth securities was a success, as it: (i) deceived the investing public regarding Genworth's prospects and business; (ii) artificially inflated the price of Genworth securities; and (iii) caused plaintiff and other members of the Class to purchase Genworth securities at inflated prices.

17. Defendants were also motivated by the compensation arrangements of Genworth, which were based on the financial performance of the Company

BACKGROUND

18. Genworth is a financial services company that provides insurance, wealth management, investment and financial solutions in the United States and internationally. In early 2012, the Company operated through three divisions: (1) Insurance and Wealth Management, which included U.S. Insurance, International Protection and Wealth Management; (2) Mortgage Insurance, which included International Mortgage insurance and U.S. Mortgage Insurance; and (3) Corporate and Runoff.

19. The Company's Mortgage Insurance division provides flow mortgage insurance. Flow insurance is primary mortgage insurance placed on an individual loan when the loan is originated. Mortgage Insurance is an insurance policy which is designed to protect banks and lenders against a loss should the borrower default on his or her loan. The borrower pays the premiums, but the lender is the beneficiary. The coverage protects lenders against default by the

borrower. If a borrower stops paying on a mortgage, the insurance company ensures that the lender will be paid in full if there is a shortfall in funds from a forced sale of the property. Mortgage insurance is typically required when the down payment on a home is less than 20% of the appraised value or sales price of the home.

20. As the U.S. real estate market and credit markets began to collapse in 2007, Genworth's U.S. mortgage insurance business began to sustain losses and the Company's mortgage insurance business struggled to maintain its capital level. In 2009, Genworth conducted an IPO of its Canadian mortgage insurance operations to use as a source of capital for its ailing business unit.

21. On November 3, 2011, Genworth announced similar plans to pursue a minority share IPO of its Australian mortgage insurance business. The Company planned to sell up to 40% of its \$2 billion Australian unit and intended to use part of the proceeds to repurchase shares of the Company's stock, in an effort to placate vocal investors who had been critical of the low returns on their money. Genworth's press release provided in part:

Genworth plans to pursue a minority initial public offering (IPO) of its Australian mortgage insurance business in the second quarter of 2012, subject to market conditions and regulatory review and approval. This move is part of a broader strategy to rebalance the business portfolio, support future growth opportunities for the Australian business with expanded access to the capital markets, maintain control positions of strategic mortgage insurance platforms in Australia and Canada, and together with other actions, free material capital for redeployment. The company anticipates selling up to 40 percent of its holdings, while maintaining a control position. In conjunction with this transaction, the company anticipates recording a tax charge in the fourth quarter of 2011 of up to \$80 million related to the potential repatriation of earnings from this planned transaction.

DEFENDANTS' FALSE AND MISLEADING STATEMENTS ISSUED DURING THE CLASS PERIOD

22. On February 2, 2012, after the market closed, Genworth issued a press release announcing its fourth quarter 2011 financial results. The Company reported net income of \$107

million, or \$0.22 diluted earnings per share (“EPS”), for the fourth quarter ended December 31, 2011. The release stated in part:

“For Genworth, 2011 was a year of repositioning actions to move the company through an uncertain environment and provide a foundation for improved shareholder value. We made progress in several areas and will maintain an intense execution focus during 2012. At business portfolio and product line levels, we took important steps to improve our focus, strengthen risk buffers and capital generation, and support future redeployment of capital,” said Michael D. Fraizer, chairman and chief executive officer. ***“Actions completed or that we continue to pursue include, the planned minority IPO of Australia Mortgage Insurance,*** shifting new business mix and volumes, selling or exiting non-strategic lines and blocks of business, further streamlining our cost base, and adding to our holding company capital flexibility. Fourth quarter earnings improved from the prior year driven by U.S. Life Insurance and U.S. Mortgage Insurance (U.S. MI) results. International platform capital generation remained strong.”

23. After releasing its fourth quarter 2011 financial results, on February 3, 2012, Genworth held a conference call for analysts, media representatives and investors during which defendant Fraizer represented the following:

Turning to International Mortgage Insurance, we continue to move forward with our planned minority interest IPO of up to 40% of Australia Mortgage Insurance. ***We still anticipate second-quarter 2012 execution. We have not encountered any regulatory or market conditions that would change that timing.***

The planned IPO supports objectives to rebalance the portfolio, maintain control of our strategic Mortgage Insurance platforms in Australia and Canada, add to risk buffers if conditions warrant, and redeploy capital.

24. On March 29, 2012, Genworth executives appeared at the JPMorgan Insurance Conference for analysts, media representatives and investors, during which defendant Klein represented the following:

I’d like to provide a few perspectives on our plan to minority IPO the Australian mortgage insurance business as well as on the business itself.

The minority IPO is one of our most important initiatives. We’re pursuing this plan in order to rebalance our mortgage insurance exposures and support future growth of the business as well as support our capital management and deployment strategies.

I'd also note that our risk buffer and liquidity plans have not and do not depend on this transaction. We're devoting a lot of time and energy to the related preparatory work and the transaction will of course depend on the regulatory review and approval process and market conditions including valuation considerations.

As part of this preparation we announced Richard Grellman who brings tremendous experience to the table as the new independent chair of our Australian mortgage insurance entity.

Turning to the business itself, in the fourth quarter we saw accelerated actions by lenders to move delinquent loans through to claim as well as some higher severities in the run-off of the New Zealand book. We'll continue to monitor all these factors and are working closely with our lenders on this front.

We're originating new business on a disciplined basis in a market where we've seen some home values consolidate downward a bit and stabilize after a period of steady appreciation. To sum up here, we're pursuing a transaction from a position of strength and will do what's most beneficial for shareholders and bondholders based on the conditions at the time. We'll provide a further update on our first-quarter 2012 earnings call.

* * *

This year we expect the Canadian and Australian markets to remain solid with mortgage originations and MI market size in both Canada and Australia to remain fairly flat with market improvements – with market share improvements I should say in Canada.

25. During the call, an analyst questioned defendant Klein about speculation from investors that the IPO may be delayed. Klein assured the analyst that the IPO remained on track to close in the second quarter of 2012. Klein further failed to disclose the extent of negative trends in Genworth's Australian mortgage insurance unit. Defendant Klein stated in part:

I would say this IPO for a number of reasons is a very, very important transaction for us. It's important in that it helps us rebalance our exposure to housing markets, particularly in a commodity type, linked type of economy, so that's helpful from that standpoint. It also helps us generate some capital that we can hopefully use for some other purpose including maybe something for shareholders over a period of time. So it's very important from that lens.

We're working very actively to put ourselves in a position to execute this in the second quarter, as we've said. That said, like any IPO there's a number of factors that impact timing and I think we're watching those very closely as we're working through. One is obviously market conditions and the impact that has on

valuation considerations. So it's not just looking at the equity markets, it's looking at the impact also in the Australian housing market and things of that nature.

So going through and looking at those economics and market conditions and how those might impact valuations is one thing that we're looking at. The other aspect is really regulatory considerations. We're in very active discussions with [APRO], which is the local regulator in Australia, to get the right approvals from capital structure and also get the approvals for the transaction.

So we're very diligently pushing that regulator. They, like many regulators, sort of move at a more deliberate pace than we might like. ***So we're working really hard to put ourselves in a position to do the transaction in the second quarter.*** But at the end of the day we're also going to look at where market conditions are and how that impacts valuation. And obviously we need to get the right spot with the regulators.

26. Then, on April 17, 2012, Genworth issued a press release entitled "Genworth Financial Announces New Timing For Planned Minority Initial Public Offering (IPO) of Australian Mortgage Insurance Business," which stated in part:

Genworth Financial, Inc. today announced a new timeframe for completing its planned minority initial public offering (IPO) of up to 40 percent of its Australian mortgage insurance (MI) business. Genworth is now seeking to complete the IPO in early 2013, subject to market conditions, valuation considerations including business performance, and regulatory approvals. The Australian MI capital ratio remains sound, and the company is continuing the IPO regulatory review process. Genworth had previously targeted a second quarter 2012 IPO.

This new timeframe primarily reflects recent business performance in Australia. For the 2012 first quarter, the company expects to report elevated loss experience in Australia as lenders accelerated the processing of later-stage delinquencies from prior years through to foreclosure and claim at a higher rate and severity than expected, particularly in coastal areas of Queensland that experienced natural catastrophes and regional economic slowdowns and among certain groups of small business owners and self-employed borrowers. First quarter experience is anticipated to result in a modest first quarter loss in the Australian MI business. A detailed report on Genworth's first quarter financial results will be provided on the company's May 2, 2012 earnings call.

Genworth has been pursuing the Australian MI IPO as part of its business portfolio management strategies. Genworth's liquidity and risk buffer plans are not dependent on the IPO, with the holding company having approximately \$1.4 billion in cash and highly liquid securities at March 31, 2012.

27. On this news, the Company's stock price dropped \$1.83 per share on April 18, 2012 to close at \$5.87 per share, a one-day decline of nearly 24% on volume of 75.3 million shares.

28. The true facts, which were known by the defendants but concealed from the investing public during the Class Period, included:

(a) Genworth was not adequately accounting for its loss reserves related to its Australian mortgage insurance unit in violation of Generally Accepted Accounting Principles ("GAAP");

(b) Genworth had far greater exposure to anticipated losses and defaults for its Australian book of business related to insurance written in the coastal area of Queensland, which experienced catastrophic flooding in January 2011, and to insurance written in 2007 and 2008 to small business and self-employed borrowers, than it had previously disclosed;

(c) Genworth failed to disclose known trends and uncertainties concerning an increase in claims and delinquencies associated with its Australian unit in the second half of 2011; and

(d) Based upon the above, defendants lacked a reasonable basis for their positive statements about the Company and its outlook, including statements about the stability and outlook of the Company's Australian mortgage insurance unit or the Company's ability to complete an IPO of its Australian business unit in the second quarter of 2012.

29. On April 20, 2012, Moody's Investors Service placed Genworth's mortgage insurance business on review for possible downgrade. Subsequently on February 4, 2013, Moody's announced the conclusion of its review, which resulted in the downgrade of the Company's Australian mortgage insurance business from "A1" to "A3."

30. On May 1, 2012, Genworth announced that defendant Fraizer had unexpectedly resigned. Further on May 1, 2012, the Company announced disappointing results for the first quarter 2012. The press release provided in part:

“We are intensely focused on the actions we can take to provide a foundation for shareholder value. While we are making progress, we have much more work to do in 2012. We are very disappointed about performance of our Australia MI business this quarter and its impact on the timing of the minority IPO,” said Martin P. Klein, acting chief executive officer. “We remain committed to completing this strategic initiative while working on other actions to improve performance in our businesses and generate and manage capital.”

* * *

Australia reported an operating loss of \$21 million versus reported operating earnings of \$52 million in the prior year. Results in the quarter included higher paid claims, lower tax benefits and the impact of the current quarter reserve strengthening. The elevated loss experience was driven primarily by a higher mix of claims and delinquencies from the coastal areas of Queensland that experienced natural catastrophes and regional economic slowdowns and among certain groups of small business owners and self-employed borrowers which were more concentrated in the 2007 and 2008 vintages. These claims and delinquencies have exhibited a higher probability of converting to claim and increased severity as a result of more severe property price declines in coastal Queensland and regional economic slowdowns.

31. After releasing its first quarter 2012 results, on May 2, 2012, Genworth hosted a conference call for analysts, media representatives and investors during which the Company represented the following:

[JEROME UPTON – Global Mortgage Insurance CFO:] [D]uring the first quarter, we experienced higher losses primarily due to loss reserve strengthening of \$82 million before taxes or \$53 million after tax, which was reviewed by independent third parties. ***The major drivers of this strengthening were first, Coastal Queensland economic downturn; two, small-business self-employed borrowers in the ‘07 and ‘08 vintages; third, the impact of lender servicing and forbearance programs; and fourth, the number of paid claims and severity.***

* * *

[ANALYST:] First on Australia, kind of just a blunt question. From an oversight standpoint, is that something that needs to be revisited and revised? Is this something that should have been caught earlier or was it truly something that arose in March and corporate got it in the financial report in early April?

... [UPTON:] *In the second half of 2011, we did see increasing delinquency levels and we did observe lender processing delays. We began to work more closely with those lenders to improve the collection and default management techniques.* It did accelerate some of the older delinquencies coming through and as those came through in the first quarter, the claim paid counts did increase in January and February but it was – the March loss emergence and the average claims size, that really gave rise to our deep dive on the delinquency inventory and the extensive review that we undertook to strengthen loss reserves of \$82 million.

We will always take a look at process. We will always endeavor to improve, but it really was those claim payments in March that gave rise to the strengthening.

... [KLEIN:] Let me just add that we intend to review the processes in Australia, quite frankly as well as relate frankly around the rest of our platforms. *We obviously want to be in a position to see business trends developing as soon as absolutely possible, so we're going to undertake those reviews and if we can improve those processes, we will certainly do so.*

32. As a result of defendants' false and misleading statements, Genworth common stock traded at artificially inflated prices during the Class Period. However, after the above-alleged revelations of the true but undisclosed facts seeped into the market, the Company's common stock experienced exorbitant selling pressure sending its price down nearly 39% from its Class Period high.

LOSS CAUSATION

33. During the Class Period, as detailed herein, the defendants made false and misleading statements and engaged in a scheme to deceive the market and a course of conduct that artificially inflated the prices of Genworth securities and operated as a fraud or deceit on Class Period purchasers of Genworth securities by misrepresenting the Company's business and prospects. Later, when the defendants' prior misrepresentations and fraudulent conduct became apparent to the market, the prices of Genworth securities fell precipitously, as the prior artificial inflation came out of the price over time. As a result of their purchases of Genworth securities during the Class Period, plaintiff and other members of the Class suffered economic loss, *i.e.*, damages, under the federal securities laws.

NO SAFE HARBOR

34. Genworth's verbal "Safe Harbor" warnings accompanying its oral forward-looking statements ("FLS") issued during the Class Period were ineffective to shield those statements from liability.

35. The defendants are also liable for any false or misleading FLS pleaded because, at the time each FLS was made, the speaker knew the FLS was false or misleading and the FLS was authorized and/or approved by an executive officer of Genworth who knew that the FLS was false. None of the historic or present tense statements made by defendants were assumptions underlying or relating to any plan, projection or statement of future economic performance, as they were not stated to be such assumptions underlying or relating to any projection or statement of future economic performance when made, nor were any of the projections or forecasts made by defendants expressly related to or stated to be dependent on those historic or present tense statements when made.

CLASS ACTION ALLEGATIONS

36. Plaintiff brings this action as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of all persons who purchased or otherwise acquired Genworth securities during the Class Period (the "Class"). Excluded from the Class are defendants and their families, the officers and directors of the Company, at all relevant times, members of their immediate families and their legal representatives, heirs, successors or assigns and any entity in which defendants have or had a controlling interest.

37. The members of the Class are so numerous that joinder of all members is impracticable. The disposition of their claims in a class action will provide substantial benefits to the parties and the Court. Genworth has more than 495 million shares of stock outstanding, owned by hundreds if not thousands of persons.

38. There is a well-defined community of interest in the questions of law and fact involved in this case. Questions of law and fact common to the members of the Class that predominate over questions that may affect individual Class members include:

- (a) Whether the 1934 Act was violated by defendants;
- (b) Whether defendants omitted and/or misrepresented material facts;
- (c) Whether defendants' statements omitted material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading;
- (d) Whether defendants knew or deliberately disregarded that their statements were false and misleading;
- (e) Whether the prices of Genworth securities were artificially inflated; and
- (f) The extent of damage sustained by Class members and the appropriate measure of damages.

39. Plaintiff's claims are typical of those of the Class because plaintiff and the Class sustained damages from defendants' wrongful conduct.

40. Plaintiff will adequately protect the interests of the Class and has retained counsel who are experienced in class action securities litigation. Plaintiff has no interests which conflict with those of the Class.

41. A class action is superior to other available methods for the fair and efficient adjudication of this controversy.

COUNT I

For Violation of §10(b) of the 1934 Act and Rule 10b-5 Against All Defendants

42. Plaintiff incorporates ¶¶1-41 by reference.

43. During the Class Period, defendants disseminated or approved the false statements specified above, which they knew or deliberately disregarded were misleading in that they contained misrepresentations and failed to disclose material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

44. Defendants violated §10(b) of the 1934 Act and Rule 10b-5 in that they:

- (a) employed devices, schemes and artifices to defraud;
- (b) made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- (c) engaged in acts, practices and a course of business that operated as a fraud or deceit upon plaintiff and others similarly situated in connection with their purchases of Genworth securities during the Class Period.

45. Plaintiff and the Class have suffered damages in that, in reliance on the integrity of the market, they paid artificially inflated prices for Genworth securities. Plaintiff and the Class would not have purchased Genworth securities at the prices they paid, or at all, if they had been aware that the market price had been artificially and falsely inflated by defendants' misleading statements.

COUNT II

For Violation of §20(a) of the 1934 Act Against All Defendants

46. Plaintiff incorporates ¶¶1-45 by reference.

47. The Individual Defendants acted as controlling persons of Genworth within the meaning of §20(a) of the 1934 Act. By virtue of their positions with the Company, and ownership of Genworth stock, the Individual Defendants had the power and authority to cause Genworth to

engage in the wrongful conduct complained of herein. Genworth controlled the Individual Defendants and all of its employees. By reason of such conduct, defendants are liable pursuant to §20(a) of the 1934 Act.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays for judgment as follows:

- A. Determining that this action is a proper class action, designating plaintiff as a Lead Plaintiff and certifying plaintiff as a Class representative under Rule 23 of the Federal Rules of Civil Procedure and plaintiff's counsel as Lead Counsel
- B. Awarding plaintiff and the members of the Class damages, including interest;
- C. Awarding plaintiff's reasonable costs and attorneys' fees; and
- D. Awarding such equitable/injunctive or other relief as the Court may deem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury.

DATED: April 4, 2014

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