

NATIONAL ASSOCIATION OF STATE FARM AGENTS, INC., a District of Columbia corporation,

Plaintiff,

v.

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, an Illinois corporation, STATE FARM GENERAL INSURANCE COMPANY, an Illinois corporation, STATE FARM FIRE AND CASUALTY COMPANY, an Illinois corporation, and STATE FARM LIFE INSURANCE COMPANY, an Illinois corporation.

Defendants.

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY CASE NO.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Handwritten initials

Serve On: Steven B. Larsen MARYLAND INSURANCE COMMISSIONER 525 St. Paul Place Baltimore, MD 21202

Plaintiff, National Association of State Farm Agents, Inc. ("NASFA"), for its Complaint against Defendants, State Farm Mutual Automobile Insurance Company, State Farm General Insurance Company, State Farm Fire And Casualty Company, and State Farm Life Insurance Company (collectively referred to as "State Farm"), states and alleges as follows:

I. INTRODUCTION

1. This is an action brought by NASFA against State Farm seeking to protect State Farm Agents from State Farm's unilateral efforts to marginalize its Agents, to reduce their incomes and to unilaterally drive them out of business in violation of their contractual and statutory rights. Plaintiffs seek a declaratory judgment that State Farm Agents are entitled to (a)

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protection from State Farm's attempted unilateral alteration, modification or amendment of its contractual relationship with State Farm Agents without their consent; (b) the protections of various state franchise laws including protection from termination or alteration of the Agents' relationship with State Farm; (c) protection from interference with their contractual relationships with policy holders; and (d) protection from encroachment upon their businesses.

2. As more fully set forth below, NASFA seeks to enjoin State Farm from, among other things, unilaterally altering the terms and conditions of member Agents' agreements with State Farm, including requiring them to "partner" with other agents; unlawfully encroaching on the member Agents' businesses through Internet sales; wrongfully discriminating against the member Agents; and otherwise diminishing the value of member Agents' franchises.

II. THE PARTIES

3. Plaintiff NASFA is a District of Columbia corporation with its principal place of business located in Baltimore, Maryland. NASFA is composed of a large number of State Farm Agents throughout the United States. NASFA's purpose is to represent State Farm Agents in dealings with State Farm so as to help ensure fair and equitable treatment of the Agents.

4. Defendants are interrelated, interlocking, and affiliated Illinois corporations with their principal places of business in Illinois, all of which offer various insurance product lines.

5. NASFA has standing to bring this case because, as shown below, (a) its members (all of whom are State Farm Agents) have standing to sue in their own right, (b) the interests the NASFA organization seeks to protect are germane to the organization's purpose, and (c) neither the claims presented nor the relief requested requires the participation of the individual members in this action.

III. PERSONAL JURISDICTION AND VENUE-

6. Upon information and belief, Defendants all transact business in Maryland, and/or contract to supply goods or services in Maryland, and/or have caused tortious injury in Maryland by an act or omission in this State, and/or have caused tortious injury in this State or outside this State by an act or omission outside of this State and regularly do or solicit business in, or engage in a persistent course of conduct in, or derive substantial revenue from services consumed in this State, and/or have an interest in, use or possesses real property in this State, and/or contracted to insure or act as surety for or on persons or property or risks or contracts or obligations to be performed within this State at the time the contract was made. Accordingly, each Defendant is subject to the jurisdiction of this Court pursuant to one or more of the sections of MD CODE, Courts & Judicial Proceedings Article ("CJP") § 6-103(b)(1)-(6). Venue is proper in accordance with CJP § 6-201(b).

IV. CONTRACT TERMS

7. State Farm and each of NASFA's member Agents are parties to agreements consisting of the written agreements between the parties, their oral representations, the written representations of State Farm, the course of dealing and practice between the parties and the implied covenant of good faith and fair dealing. These agreements provide, in essence, that the Defendant companies will solicit business from the public by and through Agents, who will be the centerpiece of the Defendant companies' system of selling insurance. The agreements reflect the primacy of the Agent for the solicitation of insurance policies from the general public, and, to that end, the need to protect the Agent as the prime and principal vehicle for soliciting and selling insurance. The written agreements, which expire only upon the death of the individual Agent, require the Agents to conduct field underwriting, solicit insurance, collect premiums,

membership fees and charges, countersign policies and assist with claims. The written agreements also explicitly provide that Agents use independent contracts and are essential to State Farm's business:

The Companies believe that agents operating as independent contractors are best able to provide the creative selling, professional counseling, and prompt and skillful service essential to the creation and maintenance of successful multiple-line companies and agencies.

They provide that Agents have protected territories:

We anticipate that in the location or relocation of your office you will not unduly infringe on the established office location of any other agent.

They give Agents the right to advertise and use State Farm's marks:

We will advertise, provide promotional materials, and participate in the cost of your advertising, in accordance with policies determined from time to time by us. You will not use any advertisements referring to us or identifying us in any way without our prior approval.

They provide for payment to the Agent:

Each [State Farm] Company will make payment to the Agent as set forth in the applicable Schedule of Payments [as and for compensation].

They provide for a continuing credit to each Agent for policies sold:

[State Farm] will leave in your account all automobile policies credited to your account so long as the policyholder resides within a 25-mile radius of your principal place of business . . .

The written agreements also provide for review of termination:

In the event we terminate this Agreement, you are entitled upon request to a review in accordance with the termination review procedures approved by the Board of the Directors of the Companies, as amended from time to time.

8. The agreements between State Farm and the Agents also have these distinguishing characteristics:

- a. State Farm grants the Agents the right to sell the Company's insurance products;
- b. State Farm expressly grants the Agents the right to use its name and mark;
- c. Agents must pay State Farm for materials, software and hardware, the right to use the State Farm logo as a condition -- express or implied -- of doing business as State Farm Agents, and must expend thousands of dollars to establish and maintain storefronts, offices, facilities and infrastructure in accordance with State Farm requirements.
- d. State Farm and the Agents have a continuing financial interest in the marketing of goods and services; virtually all Agents are completely dependent upon the sale of State Farm insurance for their livelihood.

V. STATE FARM'S BREACHES

9. Beginning approximately three years ago State Farm initiated actions, policies and conduct in an attempt to alter the fundamental relationship between the Agents and State Farm, as well as the parties' contracts and contractual rights. This conduct breached the contracts between State Farm and the Agents.

10. State Farm has breached or threatened to breach the relationship between the Agents and itself in at least the following ways:

- a. It has attempted to impose upon Agents a so-called "partnering" program that purports to require individual Agents to affiliate themselves with other agents who are qualified to sell non-insurance products and to share the identities of and information about policy holders that the Agents have developed over many years of work; as a result of this program, those agents with whom State Farm Agents are required to "partner," are allowed to raid their business and take their customers, thereby breaching State Farm's contractual obligation to maintain the primacy of the Agent, its representation that the Agent is best able to provide the service essential to creation of successful agencies, its representation that each office would not infringe on other offices, and other contractual undertakings.
- b. It has unilaterally imposed requirements upon the Agents that they have a so-called "business plan" and it has adopted a mandatory "ethics" program, in violation of the contractual undertaking that Agents be independent.

- c. It has unilaterally imposed a requirement upon Agents that they pay \$1.00 per insured to use State Farm's "customer response center" — essentially a customer service center that a policyholder can call by telephone when the Agent is not available, in violation of the contractual undertaking that Agents best serve customers and that State Farm and the Agents work together to profitably develop the business.
- d. It has also required that Agents use the customer response center in order to advertise in the Yellow Pages using the State Farm logo, thereby breaching the Agents' rights to use the name and marks of the Company;
- e. It is selling insurance over the Internet, violating the Agents' rights to be free from encroachment and to enjoy unencumbered relations with their policyholders.
- f. It has unilaterally appointed certain Agents as "select agents," giving them rights and privileges not extended to or reasonably available to other Agents and thus discriminating against Agents.
- g. It has otherwise unilaterally discontinued selling health insurance through Agents, curtailed product lines that Agents could sell, imposed new and onerous requirements upon Agents as a condition to their selling certain lines of insurance, reduced commissions and otherwise made the business and profession of being a State Farm Agent more burdensome, expensive and oppressive.

11. The purpose and effect of the actions that State Farm has taken is and has been to marginalize the Agents so that State Farm may take portions or all of the business that they have developed; to shift the costs of doing business from State Farm to the Agents so that it is more expensive for the Agents and more profitable for State Farm; to increase the labor required of Agents so that Agents, and not State Farm, must incur greater costs to sell insurance; to arrogate to itself low-cost methods of selling insurance, such as the Internet; and otherwise to relegate Agents to a subordinate position of carrying the high-cost elements of State Farm's business.

12. State Farm's actions constitute not only breaches of its agreements, but also *de facto* or constructive terminations of the agreements, in violation of State Farm's undertakings that such agreements cannot be terminated in the absence of good cause due to non-performance by the Agent, after notice to the Agent and an opportunity to cure any alleged deficiencies, or upon the death of the Agent.

13. There currently exists an actual, justiciable case and controversy between the State Farm Agents and NASFA on the one hand and State Farm on the other, as to whether State Farm's conduct and unilateral actions are unlawful in several respects, as set forth below. Because of the existence of this controversy, NASFA is entitled to a declaration of the rights of its member Agents.

VI. CAUSES OF ACTION

COUNT I BREACH OF CONTRACT

14. Plaintiff realleges and incorporates by reference the allegations set forth in the preceding paragraphs as though fully set forth herein.

15. State Farm's conduct, as set forth above, constitutes a breach of its contractual obligations to the Agents. NASFA hereby requests a declaration that such conduct constitutes a breach of State Farm's contractual obligations, and that the Court enter a preliminary and permanent injunction against any such further breaches or the conduct constituting such breaches by State Farm.

COUNT II BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING

16. Plaintiff realleges and incorporates by reference the allegations set forth in the preceding paragraphs as though fully set forth herein.

17. In every contract, including in every contract between the Agents and State Farm, there is an implied covenant of good faith and fair dealing pursuant to which neither party:

a. shall deprive or attempt to deprive the other party of the fruits of the agreement;

b. shall attempt to remake the bargain struck between the parties so as to arrogate

and claim for itself opportunities that it has already forgone;

c. shall make performance of the agreement by the other party difficult or impossible; or

d. shall use bad faith, malice, ill will, misrepresentation or other wrongful acts to evade the letter or spirit of the bargain between them.

18. State Farm's conduct, as set forth above, constitutes a violation of the implied covenant of good faith and fair dealing. NASFA is therefore entitled to a declaration that State Farm's conduct constitutes such a violation and is entitled to a preliminary and permanent injunction against such conduct.

**COUNT III
TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONS AND
PROSPECTIVE BUSINESS ADVANTAGE**

19. Plaintiff realleges and incorporates by reference the allegations set forth in the preceding paragraphs as though fully set forth herein.

20. The Agents have and have had advantageous contracts and contractual relations as well as advantageous prospective business advantages with their existing and prospective policy holders. Such contracts and prospective relations are the source of the Agents' livelihoods. State Farm not only knows of the existence of such contracts, but is intimately familiar with them.

21. State Farm's conduct, as set forth above, constitutes wrongful and tortious interference with the Agents' actual contracts and prospective business advantage. State Farm has conducted such interference knowingly, with the intent and affect that it interfere with and diminish the Agents' rights and the values of their businesses.

22. NASFA is entitled to a declaration that State Farm's conduct constitutes tortious interference with the Agents' actual contracts and prospective business advantage and a preliminary and permanent injunction against such conduct.

**COUNT IV
DE FACTO TERMINATION**

23. Plaintiff realleges and incorporates by reference the allegations set forth in the preceding paragraphs as though fully set forth herein.

24. State Farm's conduct, as alleged above, constitutes a *de facto* termination of the Agents' contracts, in violation of their contractual rights and specifically in violation of the provision that the agreements may be terminated only upon the death of the Agent. NASFA is therefore entitled to a declaration that such conduct constitutes a *de facto* termination in violation of the Agents' contracts and a preliminary and permanent injunction against such conduct.

**COUNT V
CALIFORNIA FRANCHISE INVESTMENT LAW AND
CALIFORNIA FRANCHISE RELATIONS ACT**

25. Plaintiff realleges and incorporates by reference the allegations set forth in the preceding paragraphs as though fully set forth herein.

26. For purposes of the California Franchise Investment Law, Cal. Corp. Code § 31000, et seq., and the California Franchise Relations Act, Cal. Bus. & Prof. Code § 20000, et seq., a franchise is defined as:

“... a contract or agreement, either expressed or implied, whether oral or written, between two or more persons by which: (1) A franchisee is granted the right to engage in the business of offering, selling or distributing goods or services under a marketing plan or system prescribed in substantial part by a franchisor; and (2) The operation of the franchisee's business pursuant to such plan or system is substantially associated with the franchisor's trademark, service mark, trade name, logotype,

advertising or other commercial symbol designating the franchisor or its affiliate; and (3) The franchisee is required to pay, directly or indirectly, a franchise fee.”

Cal. Corp. Code § 31005(a); Cal. Bus. Prof. Code § 20001(a) - (c).

27. The contracts and relationship between State Farm and its Agents satisfy all of the elements of the “franchise” definition under the California Franchise Investment Law and the California Franchise Relations Act.

28. Plaintiff requests a declaration that the contracts and relationship between State Farm and its Agents are “franchises” within the meaning of the California Franchise Investment Law and the California Franchise Relations Act, and State Farm may not lawfully act contrary to such statutes, *i.e.*, it may not terminate or threaten to terminate Agents without good cause, notice and an opportunity to cure; it may not offer or alter Agent agreements without registration and disclosure of its offering; and it is otherwise governed by those Acts.

COUNT VI HAWAII FRANCHISE INVESTMENT ACT

29. Plaintiff realleges and incorporates by reference the allegations set forth in the preceding paragraphs as though fully set forth herein.

30. For purposes of the Hawaii Franchise Investment Act, Haw. Rev. Stat. § 482E-1, et seq., a franchise is defined as:

“... an oral or written contract or agreement, either expressed or implied, in which a person grants to another person, a license to use a trade name, service mark, trademark, logotype or related characteristic in which there is a community interest in the business of offering, selling, or distributing goods or services at wholesale or retail, leasing, or otherwise, and in which the franchisee is required to pay, directly or indirectly, a franchise fee.”

Haw. Rev. Stat. § 482E-2.

31. The contracts and relationship between State Farm and its Agents satisfy all of the elements of the "franchise" definition under the Hawaii Franchise Investment Act.

32. Plaintiff requests a declaration that the contracts and relationship between State Farm and its Agents are "franchises" within the meaning of the Hawaii Franchise Investment Act, and State Farm may not lawfully act contrary to such statute; *i.e.*, it may not terminate or threaten to terminate Agents without good cause, notice and an opportunity to cure; it may not discriminate between Agents; it may not offer or alter Agent agreements without registration and disclosure of its offering; and it is otherwise governed by that Act.

**COUNT VII
INDIANA'S FRANCHISE ACT AND
DECEPTIVE FRANCHISE PRACTICES ACT**

33. Plaintiff realleges and incorporates by reference the allegations set forth in the preceding paragraphs as though fully set forth herein.

34. For purposes of Indiana's Franchise Act, Ind. Code § 23-2-2.5-1 et seq., and Deceptive Franchise Practices Act, Ind. Code § 23-2-2.7-1 et seq., a franchise is defined as:

"... a contract by which: (1) a franchisee is granted the right to engage in the business of dispensing goods or services, under a marketing plan or system prescribed in substantial part by a franchisor; (2) the operation of the franchisee's business pursuant to such a plan is substantially associated with the franchisor's trademark, service mark, trade name, logotype, advertising, or other commercial symbol designating the franchisor or its affiliate; and (3) the person granted the right to engage in this business is required to pay a franchise fee."

Ind. Code § 23-2-2.5-1; See Ind. Code § 23-2-2.7-5.

35. The contracts and relationship between State Farm and its Agents satisfy all of the elements of the "franchise" definition under the Indiana Franchise Act and Indiana's Deceptive Franchise Practices Act.

36. Plaintiff requests a declaration that the contracts and relationship between State Farm and its Agents are "franchises" within the meaning of the Indiana Franchise Act and Deceptive Franchise Practices Act, and State Farm may not lawfully act contrary to such statutes; *i.e.*, it may not terminate or threaten to terminate Agents without good cause, notice and an opportunity to cure; it may not discriminate between Agents; it may not offer or alter Agent agreements without registration and disclosure of its offering; and it is otherwise governed by those Acts.

COUNT VIII VIRGINIA RETAIL FRANCHISING ACT

37. Plaintiff realleges and incorporates by reference the allegations set forth in the preceding paragraphs as though fully set forth herein.

38. For purposes of the Virginia Retail Franchising Act, Va. Code Ann. § 13.1-557, et seq., a franchise is defined as:

" ... a written contract or agreement between two or more persons, by which: (1) A franchisee is granted the right to engage in the business of offering, selling or distributing goods or services at retail under a marketing plan or system prescribed in substantial part by a franchisor; (2) The operation of the franchisee's business pursuant to such plan or system is substantially associated with the franchisor's trademark, service mark, trade name, logotype, advertising or other commercial symbol designating the franchisor or its affiliate; and (3) The franchisee is required to pay, directly or indirectly, a franchise fee of \$500 or more."

Va. Code Ann. § 13.1-559(b).

39. The contracts and relationship between State Farm and its Agents satisfy all of the elements of the "franchise" definition under the Virginia Retail Franchising Act.

40. Plaintiff requests a declaration that the contracts and relationship between State Farm and its Agents are "franchises" within the meaning of the Virginia Retail Franchising Act, and State Farm may not lawfully act contrary to such statute; *i.e.*, it may not terminate or threaten to terminate Agents without good cause, notice and an opportunity to cure; it may not offer or alter Agent agreements without registration and disclosure of its offering; and it is otherwise governed by that Act.

COUNT IX MINNESOTA FRANCHISE ACT

41. Plaintiff realleges and incorporates by reference the allegations set forth in the preceding paragraphs as though fully set forth herein.

42. For purposes of the Minnesota Franchise Act, Minn. Stat. § 80C.01, et seq., a franchise is defined as:

" ... (1) a contract or agreement, either express or implied, whether oral or written, for a definite or indefinite period, between two or more persons: (i) by which a franchisee is granted the right to engage in the business of offering or distributing goods or services using the franchisor's trade name, trademark, service mark, logotype, advertising, or other commercial symbol or related characteristics; (ii) in which the franchisor and franchisee have a community of interest in the marketing of goods or services at wholesale, retail, by lease, agreement, or otherwise; and (iii) for which the franchisee pays, directly or indirectly, a franchise fee ..."

Minn. Stat. § 80C.01, Subd. 4.

43. The contracts and relationship between State Farm and its Agents satisfy all of the elements of the "franchise" definition under the Minnesota Franchise Act.

44. Plaintiff requests a declaration that the contracts and relationship between State Farm and its Agents are "franchises" within the meaning of the Minnesota Franchise Act, and State Farm may not lawfully act contrary to such statute; *i.e.*, it may not terminate or threaten to terminate Agents without good cause, notice and an opportunity to cure; it may not discriminate between Agents; it may not offer or alter Agent agreements without registration and disclosure of its offering; and it is otherwise governed by that Act.

COUNT X
WISCONSIN FRANCHISE INVESTMENT LAW AND FAIR DEALERSHIP LAW

45. Plaintiff realleges and incorporates by reference the allegations set forth in the preceding paragraphs as though fully set forth herein.

46. For purposes of the Wisconsin Franchise Investment Law, Wis. Stat. § 553.01, et seq., and the Wisconsin Fair Dealership Law, a franchise is defined as:

" ... a contract or agreement, either express or implied, whether oral or written, between 2 or more person by which:

(1) A franchisee is granted the right to engage in the business of offering, selling or distributing goods or services under a marketing plan or system prescribed or suggested in substantial part by a franchisor; and (2) The operation of the franchisee's business pursuant to such plan or system is substantially associated with the franchisor's business and trademark, service mark, trade name, logotype, advertising or other commercial symbol designating the franchisor or its affiliate; and (3) The franchisee is required to pay, directly or indirectly, a franchise fee."

Wis. Stat. § 553.03(4).

47. The contracts and relationship between State Farm and its Agents satisfy all of the elements of the "franchise" definition under the Wisconsin Franchise Investment Law and Fair Dealership Law.

48. Plaintiff requests a declaration that the contracts and relationship between State Farm and its Agents are "franchises" within the meaning of the Wisconsin Franchise Investment Law and Fair Dealership Law, and State Farm may not lawfully act contrary to such statutes; *i.e.*, it may not terminate or threaten to terminate Agents without good cause, notice and an opportunity to cure; it may not offer or alter Agent agreements without registration and disclosure of its offering; and it is otherwise governed by those Acts.

COUNT XI
NEBRASKA FRANCHISE PRACTICES ACT

49. Plaintiff realleges and incorporates by reference the allegations set forth in the preceding paragraphs as though fully set forth herein.

50. For purposes of the Nebraska Franchise Practices Act, Neb. Stat. § 87-402, et seq., a franchise is defined as:

" ... a written arrangement for a definite or indefinite period, in which a person grants to another person for a franchise fee a license to use a trade name, trademark, service mark, or related characteristics and in which there is a community of interest in the marketing of goods or services at wholesale, retail, or otherwise ..."

Neb. Stat. § 87-402.

51. The contracts and relationship between State Farm and its Agents satisfy all of the elements of the "franchise" definition under the Nebraska Franchise Practices Act.

52. Plaintiff requests a declaration that the contracts and relationship between State Farm and its Agents are "franchises" within the meaning of the Nebraska Franchise Practices Act, and State Farm may not lawfully act contrary to such statutes; *i.e.*, it may not terminate the Agents' contracts without notice, good cause and an opportunity to cure; and it is otherwise governed by the Act.

COUNT XII
NEW JERSEY FRANCHISE PRACTICES ACT

53. Plaintiff realleges and incorporates by reference the allegations set forth in the preceding paragraphs as though fully set forth herein.

54. For purposes of the New Jersey Franchise Practices Act, N. J. Stat. Ann. § 56:10-1, et seq., a franchise is defined as:

“ ... a written agreement for a definite or indefinite period, in which a person grants to another person a license to use a trade name, trademark, service mark, or related characteristics, and in which there is a community of interest in the marketing of goods or services at wholesale, retail, by lease, agreement, or otherwise.”

N. J. Stat. Ann. § 56:10-3(a).

55. The contracts and relationship between State Farm and its Agents satisfy all of the elements of the “franchise” definition under the New Jersey Franchise Practices Act.

56. Plaintiff requests a declaration that the contracts and relationship between State Farm and its Agents are “franchises” within the meaning of the New Jersey Franchise Practices Act, and State Farm may not lawfully act contrary to such statute; *i.e.*, it may not terminate the Agents’ contracts without notice, good cause and an opportunity to cure; and it is otherwise governed by the Act.

COUNT XIII
OREGON FRANCHISE ACT

57. Plaintiff realleges and incorporates by reference the allegations set forth in the preceding paragraphs as though fully set forth herein.

58. For purposes of the Oregon Franchise Act, Or. Rev. Stat. § 650.005, et seq., a franchise is defined as:

“ ...a contract or agreement, whether oral or written, by which:
(a) A franchisee is granted the right to engage in the business of offering, selling or distributing goods or services under a marketing plan or system prescribed in substantial part by a franchisor; (b) The operation of the franchisee’s business pursuant to such plan or system is substantially associated with the franchisor’s trademark, service mark, trade name, logotype, advertising or other commercial symbol designating the franchisor of such plan or system; and (c) The franchisee is required to give the franchisor a valuable consideration for the right to transact business pursuant to the plan or system...”

Or. Rev. Stat. § 650.005(4).

59. The contracts and relationship between State Farm and its Agents satisfy all of the elements of the “franchise” definition under the Oregon Franchise Act.

60. Plaintiff requests a declaration that the contracts and relationship between State Farm and its Agents are “franchises” within the meaning of the Oregon Franchise Act, and State Farm may not lawfully act contrary to such statute; *i.e.*, it may not offer, or enter into or alter Agent agreements without first registering and disclosing the offer as a franchise; and it is otherwise governed by the Act.

**COUNT XIV
ARKANSAS FRANCHISE PRACTICES ACT**

61. Plaintiff realleges and incorporates by reference the allegations set forth in the preceding paragraphs as though fully set forth herein.

62. For purposes of the Arkansas Franchise Practices Act, Ark. Code Ann. § 4-72-201, et seq., a franchise is defined as:

“ ... a written or oral agreement for a definite or indefinite period, in which a person grants to another person a license to use a trade name, trademark, service mark, or related characteristic within an exclusive or non-exclusive territory, or to sell or distribute goods or services within an exclusive or non-

exclusive territory, at wholesale, retail, by lease agreement, or otherwise”

Ark. Code Ann. § 4-72-202(1).

63. The contracts and relationship between State Farm and its Agents satisfy all of the elements of the “franchise” definition under the Arkansas Franchise Practices Act.

64. Plaintiff requests a declaration that the contracts and relationship between State Farm and its Agents are “franchises” within the meaning of the Arkansas Franchise Practices Act, and State Farm may not lawfully act contrary to such statute; *i.e.*, it may not terminate the Agents’ contracts without notice, good cause and an opportunity to cure; and it is otherwise governed by the Act.

**COUNT XV
DELAWARE FRANCHISE SECURITY LAW**

65. Plaintiff realleges and incorporates by reference the allegations set forth in the preceding paragraphs as though fully set forth herein.

66. For purposes of the Delaware Franchise Security Law, Del. Code Ann. tit. 6, § 2551, et seq., a franchise is defined as:

“ ...a contract or other arrangement governing the business relationship within this State between a franchised distributor and a franchisor where the franchised distributor is required to pay more than \$100 to enter into such contract or other arrangement ...”

Del. Code Ann. tit. 6, § 2551(3).

67. The contracts and relationship between State Farm and its Agents satisfy all of the elements of the “franchise” definition under the Delaware Franchise Security Law.

68. Plaintiff requests a declaration that the contracts and relationship between State Farm and its Agents are “franchises” within the meaning of the Delaware Franchise Security

Law, and State Farm may not lawfully act contrary to such statute; *i.e.*, it may not terminate the Agents' contracts without notice, good cause and an opportunity to cure; and it is otherwise governed by the Act.

COUNT XVI
NEW YORK FRANCHISE SALES ACT

69. Plaintiff realleges and incorporates by reference the allegations set forth in the preceding paragraphs as though fully set forth herein.

70. For purposes of the New York Franchise Sales Act, N.Y. Gen. Bus Law § 680, et seq., a franchise is defined as:

“...a contract or agreement, either expressed or implied, whether oral or written, between two or more persons by which: (a) A franchisee is granted the right to engage in the business of offering, selling, or distributing goods or services under a marketing plan or system prescribed in substantial part by a franchisor, and the franchisee is required to pay, directly or indirectly, a franchise fee, or (b) A franchisee is granted the right to engage in the business of offering, selling, or distributing goods or services substantially associated with the franchisor's trademark, service mark, trade name, logotype, advertising, or other commercial symbol designating the franchisor or its affiliate, and the franchisee is required to pay, directly or indirectly, a franchise fee.”

N.Y. Gen. Bus. Law § 681(3).

71. The contracts and relationship between State Farm and its Agents satisfy all of the elements of the “franchise” definition under the New York Franchise Sales Act.

72. Plaintiff requests a declaration that the contracts and relationship between State Farm and its Agents are “franchises” within the meaning of the New York Franchise Sales Act, and State Farm may not lawfully act contrary to such statute; *i.e.*, it may not offer, or

enter into or alter Agent agreements without first registering and disclosing the offer as a franchise, and it is otherwise governed by the Act.

COUNT XVII
MICHIGAN FRANCHISE INVESTMENT LAW

73. Plaintiff realleges and incorporates by reference the allegations set forth in the preceding paragraphs as though fully set forth herein.

74. For purposes of the Michigan Franchise Investment Law, Mich. Comp. Laws Ann. § 445.1501, et seq., a franchise is defined as:

“ ...a contract or agreement, either express or implied, whether oral or written, between 2 or more persons to which all of the following apply: (a) A franchisee is granted the right to engage in the business of offering, selling, or distributing goods or services under a marketing plan or system prescribed in substantial part by a franchisor. (b) A franchisee is granted the right to engage in the business of offering, selling, or distributing goods or services substantially associated with the franchisor’s trademark, service mark, trade name, logotype, advertising, or other commercial symbol designating the franchisor or its affiliate. (c) The franchisee is required to pay, directly or indirectly, a franchise fee.

Mich. Comp. Laws Ann. § 445.1502(3).

75. The contracts and relationship between State Farm and its Agents satisfy all of the elements of the “franchise” definition under the Michigan Franchise Investment Law.

76. Plaintiff requests a declaration that the contracts and relationship between State Farm and its Agents are “franchises” within the meaning of the Michigan Franchise Investment Law, and State Farm may not lawfully act contrary to such statute; *i.e.*, it may not offer, or enter into or alter Agent agreements without first registering and disclosing the offer as a franchise; and it is otherwise governed by the Act.

COUNT XVIII
MARYLAND FRANCHISE REGISTRATION AND DISCLOSURE LAW

77. Plaintiff realleges and incorporates by reference the allegations set forth in the preceding paragraphs as though fully set forth herein.

78. For purposes of the Maryland Franchise Registration and Disclosure Law, Md. Code Ann., Bus. Reg. § 14-201, et seq., a franchise is defined as:

“ ...an expressed or implied, oral or written agreement in which:
(i) A purchaser is granted the right to engage in the business of offering, selling, or distributing goods or services under a marketing plan or system prescribed in substantial part by the franchisor; (ii) The operation of the business under the marketing plan or system is associated substantially with the trademark, service mark, trade name, logotype, advertising, or other commercial symbol that designates the franchisor or its affiliate; and (iii) The purchaser must pay, directly or indirectly, a franchise fee.”

Md. Code Ann., Bus. Reg. § 14-201(e)(1).

79. The contracts and relationship between State Farm and its Agents satisfy all of the elements of the “franchise” definition under the Maryland Franchise Registration and Disclosure Law.

80. Plaintiff requests a declaration that the contracts and relationship between State Farm and its Agents are “franchises” within the meaning of the Maryland Franchise Registration and Disclosure Law, and State Farm may not lawfully act contrary to such statute; *i.e.*, it may not offer, or enter into or alter Agent agreements without first registering and disclosing the offer as a franchise, and it is otherwise governed by the Act.

COUNT XIX
ILLINOIS FRANCHISE DISCLOSURE ACT OF 1987

81. Plaintiff realleges and incorporates by reference the allegations set forth in the preceding paragraphs as though fully set forth herein.

82. For purposes of the Illinois Franchise Disclosure Act of 1987, 815 Ill. Comp. Stat. § 705/1, et seq., a franchise is defined as:

“ ...a contract or agreement, either expressed or implied, whether oral or written, between two or more persons by which: (a) a franchisee is granted the right to engage in the business of offering, selling, or distributing goods or services, under a marketing plan or system prescribed or suggested in substantial part by a franchisor; and (b) the operation of the franchisee’s business pursuant to such plan or system is substantially associated with the franchisor’s trademark, service mark, trade name, logotype, advertising, or other commercial symbol designating the franchisor or its affiliate; and (c) the person granted the right to engage in such business is required to pay, directly or indirectly, a franchise fee of \$500.00 or more.”

815 Ill. Comp. Stat. § 705/3-(1).

83. The contracts and relationship between State Farm and its Agents satisfy all of the elements of the “franchise” definition under the Illinois Franchise Disclosure Act of 1987.

84. Plaintiff requests a declaration that the contracts and relationship between State Farm and its Agents are “franchises” within the meaning of the Illinois Franchise Disclosure Act of 1987, and State Farm may not lawfully act contrary to such statute; *i.e.*, it may not terminate or threaten to terminate Agents without good cause, notice and an opportunity to cure; may not discriminate between Agents; it may not offer or alter Agent agreements without registration and disclosure of its offering; and it is otherwise governed by that Act.

WHEREFORE, Plaintiffs demand relief as follows:

1. For a declaratory judgment described in favor of Plaintiff, as described above;
2. For injunctive relief as requested above;
3. For Plaintiff's costs and disbursements incurred herein and attorneys' fees recovery under applicable law; and
4. For such other and further relief in favor of Plaintiff and against State Farm as the Court deems just and equitable.

DATED: November 2, 2001

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