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13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF MENDOCINO
15 Ukiah Branch

16 STATE FARM MUTUAL AUTOMOBILE)
INSURANCE COMPANY, STATE)
17 FARM FIRE AND CASUALTY)
COMPANY, STATE FARM LIFE)
18 INSURANCE COMPANY, AND STATE)
19 FARM GENERAL INSURANCE)
COMPANY,)

GENERAL
Civil No. 82819

20 Plaintiffs,

DECLARATION OF DON K.
CALLAHAN

21 v.

22 JOHN W. WIER and RICHARD L.
23 PYORRE,

24 Defendants.

1 I, DON K. CALLAHAN, declare:

2 1. I am a State Farm insurance agent located in San Leandro, California. I have
3 been a State Farm agent since March 15, 1964. I have personal knowledge of the
4 following facts and, if I were called as a witness, could competently testify to them under
5 oath.

6 2. I am a lifetime member of State Farm's President's Club. I have been a
7 member of the President's Club since 1968 and a lifetime member since 1971. The
8 qualification to be a member is to be one of the top 50 State Farm agents in auto, fire, or
9 life insurance, or in multiple lines of insurance. The qualification to be a lifetime member
10 is to achieve this standard at least 5 times in consecutive years. Membership in the
11 lifetime President's Club is the highest production award that can be given to a State Farm
12 agent. There are various categories within which an agent can also be recognized, on an
13 annual basis, for contributing to State Farm's profitability. The highest level is "Crystal
14 Excellence", which I have achieved annually for many years. I believe I am the only State
15 Farm agent in California who is both a lifetime member of the President's Club and a
16 holder of the highest award for contributing to State Farm's profitability.

17 3. When State Farm terminates the contract of an agent involuntarily, the agent
18 has a contractual right to a review of the termination decision before a review committee
19 which includes two lifetime members of the President's Club, selected by the agent, in
20 addition to company personnel. The purpose of this review is to assure an objective,
21 impartial evaluation of all of the facts and circumstances and an evaluation of the basis of
22 the termination, by a jury which includes two highly-qualified peers selected by the agent.

23 4. I was selected by Rich Pyorre to sit on the committee reviewing the
24 termination of his contract. When I was notified of this selection I was told that I should
25 not investigate, speak to anyone, or review any materials about the subject prior to the
26 termination review session itself. This precluded me from conducting any independent
27 investigation and limited my knowledge to what was presented to me at the termination
28 review proceeding, itself.

1 5. The termination review proceeding took place on February 23, 1999.

2 6. At the proceeding, Ms. Mary Bitzer, State Farm's Vice-President of Agency
3 matters for California, read a written presentation of the Company's case against Mr.
4 Pyorre.

5 7. In her presentation, Ms. Bitzer repeatedly emphasized that the reason Mr.
6 Pyorre's contract was terminated had nothing to do with any company concern about being
7 able to control Mr. Pyorre or agents in general. She created the impression that the sole
8 reason the company wished to terminate the contract was that the company wanted to
9 make presentations to the customers and to regulators that its agents were ethical, and Mr.
10 Pyorre's non-attendance at a mandatory meeting was frustrating that goal. A copy of the
11 presentation is attached as Attachment 1.

12 8. As I received this presentation, I assumed that Ms. Bitzer, perhaps with the
13 assistance of some of her colleagues, had prepared this presentation and was presenting
14 her honest beliefs. I assumed she was stating the real reason for the company's decision
15 to terminate Mr. Pyorre's contract -- that the company was concerned about presenting a
16 united "ethical" front -- and that this did not represent a move to get the business out of
17 the hands of agents whom State Farm could not control.

18 9. Even making these assumptions, I did not believe that Mr. Pyorre's entire
19 contract should be terminated because he preferred to handle the course as a self-study
20 course. There was no evidence that Mr. Pyorre had any ethical shortcomings whatsoever,
21 and I did not see why the company could not present the same united ethical front
22 regardless of whether the course was completed in self-study. I had attended one of the
23 courses myself and did not find the discussion portion to be particularly useful on the
24 subject of ethics.

25 10. After the "official" part of the review proceeding, the reviewing group met
26 for private deliberation. In that discussion, I expressed my opinion that Mr. Pyorre's
27 contract should not be terminated for the reason stated by Ms. Bitzer. This appeared to
28 be a relatively trivial problem which should be solved by some other means. I also stated

1 that the termination would be improper because, as part of its maintenance of the
2 independent contractor relationship, State Farm does not impose mandatory meetings. The
3 agent attends State Farm meetings at his or her option.

4 11. These statements by me were dismissed out of hand by the company officials.
5 There was no substantive response, analysis, or discussion of my statements whatsoever.

6 12. I do not recall having any further contact from anyone involved after the
7 proceeding. Under the termination review procedure, the record of our termination review
8 and evaluation is supposed to go to Mr. Rust, the head of the company, for final decision.
9 I do not recall receiving any contact from Mr. Rust, but learned later that Mr. Rust had
10 approved the termination of Mr. Pyorre's contract.

11 13. The way in which the termination review was handled has bothered me ever
12 since. The company's stated reasons for terminating Mr. Pyorre's contract, which I
13 accepted at the time, just did not add up, and I was further bothered by the lack of
14 response when I expressed my opinion in the deliberations afterward. It was almost as
15 though the result of the termination review was pre-ordained, and I was just being used as
16 a prop to go through the motions. For that reason, I declined to be a member of the review
17 committee for John Wier's termination proceeding, which took place shortly afterwards.

18 14. Within the past few days, having learned that the entire subject was now in
19 active litigation, I contacted Mr. Pyorre and expressed my concern. He put me in touch
20 with his attorney, Mr. Tedards. After I expressed some of my concern, Mr. Tedards said
21 that Ms. Bitzer, Mr. Rust, Mr. Wright, and Mr. Chaney had testified about these matters
22 and that he would provide me with relevant portions of that testimony, so that I could see
23 more of what had gone on in connection with the termination review proceeding.

24 15. I have reviewed portions of the testimony of those four people, which are
25 attached as Attachments 2 - 5. With the benefit of that information, none of which was
26 conveyed to me at the time that I participated as a supposed juror to decide Mr. Pyorre's
27 fate, I wish to state the following.

1 16: I was not aware that Ms. Bitzer's presentation was prepared for her by legal
2 counsel as a prosecutorial tool, and that she, as the executive of the company, did not
3 know the reasons for many of the statements in the presentation. The company stresses
4 in its explanation of the termination review proceeding that the proceeding is not "legal"
5 and prohibits the agent from having any counsel speak. If I had known the truth about Ms.
6 Bitzer's presentation, I would have been far more suspicious of the stated reasons for the
7 termination. The company emphasizes that the review proceeding is purely an open fact-
8 finding exercise by an objective jury of the agent's "peers", so that they can decide
9 whether all of the facts, taken together, warrant a termination. This was obviously not
10 what happened in this instance.

11 17. I am aware that the company has instituted regular mandatory training
12 meetings since this first mandatory meeting that Mr. Pyorre did not attend, but I was not
13 aware, until I read Ms. Bitzer's testimony, that the initial meeting was expressly designed
14 as a "precursor" to these annual training meetings and that one of the main purposes of the
15 whole program was to instruct agents in the marketing and selling of financial products that
16 State Farm has recently been introducing. I was given the impression at the termination
17 review proceeding that the so-called "ethics" meeting was a one-time event, so that the
18 company could present a united ethical front to the customers and to regulators.

19 18. I was not aware, until I read Ms. Bitzer's and Mr. Rust's testimony, that in
20 fact the company has made no attempt to promote a unified ethical front to any customer
21 or regulator and, apparently, has no plans to do so.

22 19. I was not aware, until I read Mr. Wright's testimony, that he had so little
23 familiarity with the ethics course that he could not even identify its basic subjects or make
24 any comment on the degree to which the course instructs agents on how to market and sell
25 financially-based products, as compared to the degree to which the course instructs agents
26 with respect to "ethics."

27 20. I was certainly not aware, until I read Mr. Rust's testimony, that Mr. Rust had
28 been stating that he conferred with me after the termination review proceeding and that he

1 has stated: "I had trouble understanding the agent's position as did the other agent who
2 listened." I do not recall any contact from Mr. Rust or anyone else from the company
3 since the termination review proceeding, and at no point did I convey to Mr. Rust, or
4 anyone else, that I did not understand Mr. Pyorre's position. I had trouble understanding
5 the company's position, not Mr. Pyorre's.

6 21. I was not aware, until I read Mr. Rust's testimony, that Mr. Rust apparently
7 based his decision to terminate Mr. Pyorre's contract, not on the actual failure to attend
8 the class, but on Mr. Pyorre's lack of subservience toward the company, stating that he
9 saw a "significant lack of willingness to cooperate ... which is 180 degrees from the agent-
10 principal relationship." Mr. Rust states that he gleaned this "in talking with the agents"
11 who participated in the proceeding. Mr. Rust states that "it was the attitude, the lack of
12 cooperation, the understanding on, you know, the need for the course -- that whole
13 environment, as I went through, basically the attitude that, frankly, was confirmed, as I
14 recall from the comments of the two agents when I talked to them, is what I based my
15 decision on." As I stated before, I do not recall that Mr. Rust or anyone else from the
16 company spoke to me after the termination review proceeding, and I certainly did not make
17 any such statements to Mr. Rust.

18 22. I did not know, until I read Mr. Chaney's testimony, that the company had
19 contacted all of Mr. Pyorre's policyholders before the termination review process had been
20 completed, informed them that Mr. Pyorre's contract had been terminated, and given them
21 instructions as to who their new agent would be.

22 23. I did not know, until I read Mr. Chaney's testimony, that the company had
23 then contacted all of the State Farm agents in Mr. Pyorre's area, still before the termination
24 review process had been completed, and instructed them that they should refer any inquiry
25 from Mr. Pyorre's policyholders to Mr. Chaney's designated office, in order to "preserve
26 the account" for agents of the company's choosing. It is obvious from Mr. Chaney's
27 testimony that the outcome of the termination review proceeding was fixed ahead of time.
28

1 24. I have just reviewed the declaration of another agent, Paul Dix, who has now
2 come forward and revealed that, as early as 1997, the company was paying special
3 attention to Mr. Pyorre and others who were engaged in litigation with the company and
4 questioning some of its policies. Mr. Dix indicates that he was warned by a company
5 official in 1997 not to get "in bed" with people like Mr. Pyorre after Mr. Dix was observed
6 having lunch with Art Appling one day. None of this pre-existing company attitude toward
7 Mr. Pyorre was revealed to me in the termination review proceeding. I believe I now
8 understand, however, what Mr. Rust meant when he said in his deposition that Mr.
9 Pyorre's "lack of cooperation ... that whole environment ... was confirmed" by the
10 termination review.

11 25. As a lifetime member of the President's Club, I am familiar with the
12 contractual principles which underlie the right to a termination review. The review is
13 supposed to be an honest, above-board, objective evaluation of all of the facts and
14 circumstances of the recommended termination, by a jury of the agent's peers, which is
15 non-legal and unbiased. The agent's contract is not to be terminated unless some serious
16 infraction has occurred, as determined by this unbiased and objective review. Based on
17 what I observed at the time and what I have now learned, I must state, as one of the
18 supposed "jurors", that Mr. Pyorre did not receive a bona fide termination review. In
19 particular, it appears that the result of the termination review was pre-ordained and that
20 the real reason for the termination -- a general inability to control Mr. Pyorre and a desire
21 to get his policyholders out of his hands and into the hands of agents whom the company
22 could control -- was not only suppressed in the presentation that was made to me, it was
23 expressly denied.

24 I declare under penalty of perjury under the laws of the State of California that the
25 foregoing is true and correct.

26 DATED: February 14, 2001

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DON K. CALLAHAN