

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

WILLIAM GILMAN,

Plaintiff,

v.

ELIOT SPITZER and THE SLATE GROUP,  
LLC

Defendants.

Case No. 11 Civ 5843 (JPO)  
ECF Case

**DECLARATION OF JAMES W. HALTER IN OPPOSITION TO  
DEFENDANTS' MOTION FOR JUDGMENT ON THE PLEADINGS**

I, James W. Halter, an attorney duly admitted to practice in the courts of the State of New York and the Southern District of New York, declare as follows:

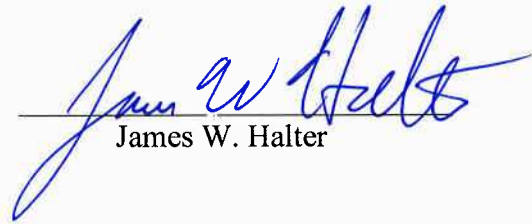
1. I am an associate with the law firm of Liddle & Robinson, L.L.P, counsel for Plaintiff William Gilman. I submit this declaration in opposition to Defendants' motion for judgment on the pleadings (Dkt. # 14).

2. Attached hereto as Exhibit A is a true and correct copy of an article from *Business Insurance* entitled "More Charges Canceled In Bid-Rigging Case, Some Guilty Pleas Undone By Judge; Others Downgraded," dated February 1, 2010. (<http://www.businessinsurance.com/article/20100129/NEWS/100129905#crit=marsh>)

3. Attached hereto as Exhibit B is a true and correct copy of an article from *Business Insurance* entitled "Judge Dismisses Charges Against Several in Marsh Case," dated January 20, 2010. (<http://www.businessinsurance.com/article/20100120/NEWS/100129991>)

I hereby declare under penalty of perjury that the foregoing is true and correct.

Dated: December 13, 2011  
New York, New York

  
James W. Halter

# **EXHIBIT A**

# Business Insurance

## Judge cancels more charges in bid-rigging case

Posted On: Jan. 29, 2010 6:00 PM CST

**Colleen McCarthy**

ADVERTISEMENT

NEW YORK—A New York state judge Friday dismissed criminal charges against more former insurance executives who had pleaded guilty to charges in connection with New York's bid-rigging investigation involving Marsh Inc.

Meanwhile, the judge reduced or modified criminal charges against other cooperators in the case, but rejected dismissing charges against one former broker after ruling that he violated the terms of his plea agreement.

The action, which came at the request of the New York attorney general's office, followed a similar motion last week involving several individuals who cooperated with the state's investigation.

At a hearing Friday in New York County Supreme Court, Judge James Yates dismissed outright the misdemeanor charges against two individuals who in 2004 and 2005 had pleaded guilty to criminal charges that they participated in a Marsh Inc. scheme to rig bids on client insurance placements.

They are:

- Carlos Coello, a former underwriter for American Home Assurance Co., a unit of American International Group Inc.
- Nicole Michaels, a former Marsh Inc. broker.

In addition, Judge Yates reduced eight other individuals' felony guilty pleas to misdemeanors. Five will have the downgraded charges dropped entirely in six months, through a legal mechanism called adjournment in contemplation of dismissal, the judge said.

They are:

- Regina Hatton, a former Marsh broker.
- Mark Manzi, the former head of global placement specialties-North America for Marsh.

- John Mohs, a former American Home manager.
- Karen Radke-Jacobson, a former American Home senior vp.
- Jean-Baptist Tateossian, a former manager of national accounts for American Home.

However, at the prosecutors' request, the judge did not apply the ACD ruling to three of the individuals whose charges were reduced. Instead, the judge imposed sentences.

They are:

- Joshua Bewlay, former managing director, global broking at Marsh.
- Peter Anderson, a former local broking coordinator at Marsh.
- Edward Keane Jr., a former assistant vp at Marsh.

Judge Yates sentenced Messrs. Bewlay and Anderson to unconditional discharge, which essentially is a conviction without punishment such as a jail sentence, fine or parole. "Over the period of the last five years, I believe you have suffered enough," the judge said.

Mr. Keane's sentencing hearing was scheduled for March 2.

A final cooperator in the case—Todd Murphy, a former senior vp at Marsh who pleaded guilty to misdemeanor charges in 2005—was deemed ineligible for a "plea modification" by prosecutors because he violated the terms of his plea agreement when he reapplied for his insurance license one year after it had been revoked.

In addition, Assistant Attorney General Yu Jin Hong argued that Mr. Murphy did not provide "credible" testimony during one of the trials.

Judge Yates, who ruled that Mr. Murphy violated the terms of his plea agreement by seeking to reinstate his insurance license, said Mr. Murphy's misdemeanor charges will remain and imposed a sentence of unconditional discharge.

Another former insurance executive, Edward Coughlin, a former senior underwriter with the excess casualty division of Zurich American Insurance Co., pleaded guilty in 2004 to misdemeanor charges. A spokesman for the attorney general's office confirmed that Mr. Coughlin already served a sentence of six months of probation.

Last week, Judge Yates dismissed or reduced similar criminal charges against nine other individuals in the case. The charges were brought originally by former New York Attorney General Eliot Spitzer, who had secured 21 guilty pleas as part of his probe into contingent commission practices in the insurance industry. The individuals had accepted plea agreements with prosecutors and cooperated in the state's investigation. Eight other executives were indicted in 2005 and later faced trial.

Prosecutors from New York Attorney General Andrew Cuomo's office, which inherited the case, asked the judge to grant the dismissals "in the interest of justice."

"Considering the related cases, and the results that were obtained with respect to the other individuals in this case, this is the most just and appropriate thing to do at this time," the judge said in granting the motions.

Last October, Judge Yates acquitted three former Marsh executives of all charges in the case after a nearly 11-month trial. They are: Joseph Peiser, former managing director and head of Marsh's global broking excess casualty unit; Greg J. Doherty, former Marsh senior vp and ACE USA local broking coordinator team leader; and Kathleen M. Drake, former Marsh managing director and local broking coordinator team leader.

In November, the judge dismissed criminal charges against three remaining defendants before their trial began. They are former Marsh Senior Vps Thomas T. Green Jr. and William L. McBurnie; and Geri Mandel, former senior vp at Zurich American Insurance Co.

In February 2008, former Marsh Managing Directors William Gilman and Edward J. McNenney were found guilty of an antitrust charge but acquitted of other charges. They were sentenced to 16 weekends in jail, which has been stayed pending appeal.

Marsh itself did not face any criminal charges in the case but paid \$850 million in January 2005 to end officials' bid-rigging and fraud probes.

---

# **EXHIBIT B**

---

# Business Insurance

---

## Judge dismisses charges against several in Marsh case

Posted On: Jan. 20, 2010 4:27 PM CST

**Colleen McCarthy**

ADVERTISEMENT

NEW YORK—A New York state judge Wednesday granted prosecutors' request to dismiss criminal charges against several former insurance executives who pleaded guilty to charges in connection with New York's investigation of bid-rigging and broker compensation practices.

At a hearing Wednesday in New York County Supreme Court, Judge James Yates dismissed outright the misdemeanor charges against six individuals who in 2004 and 2005 had pleaded guilty to criminal charges that they helped broker Marsh Inc. rig bids on client insurance placements.

In addition, Judge Yates reduced three other individuals' felony guilty pleas to misdemeanors. Those remaining misdemeanor charges will be dropped entirely in six months, the judge said, granting the New York attorney general's office's motion to dismiss the charges "in the interest of justice."

"This action is not an admission that there was anything wrong with the pleas. The factors of this case are specifically unique," Felice Sontupe, assistant New York attorney general, said at the hearing Wednesday.

The individuals whose misdemeanor charges were dismissed are:



- Patricia Abrams, who was an ACE Casualty Risk assistant vp;
- Kevin Bott, a former assistant vp with Liberty International's excess casualty division in New York;
- Maryann Brainard-Baret of Marsh;
- John Keenan, a former underwriter with a New York-based excess casualty unit of Zurich American Insurance Co.;
- Jason Monteforte, a former Marsh broker; and
- George Niccolai of Marsh.

The individuals whose felony charges were reduced are:

- James Spiegel, a former Zurich North America senior underwriter and manager of the insurer's specialties excess casualty division;
- Robert Stearns, a former Marsh senior vp;
- Kathryn Winter, a former Marsh managing director and broker in the excess casualty operations of the Global Broking unit.

The charges were originally brought by former New York Attorney General Eliot Spitzer, who had secured 21 guilty pleas as part of his probe into contingent commission practices in the insurance industry. The individuals had accepted plea agreements with prosecutors and cooperated in the state's investigation. Eight other executives were indicted in 2005 and later faced trial.

A hearing on the remaining individuals who entered guilty pleas in conjunction with the investigation is scheduled for Jan. 29.

In granting the motion to dismiss, Judge Yates said that given the outcome of various trials in the case and "the unjustifiably high cost to the state, this constitutes an injustice in my mind."

Judge Yates in November dismissed criminal charges against three other individuals: former Marsh Senior Vps Thomas T. Green Jr. and William L. McBurnie, and Geri Mandel, former senior vp at Zurich American Insurance Co.

Previously, Judge Yates acquitted three other Marsh executives of all charges in the case. They are: Joseph Peiser, former managing director and head of Marsh's global broking excess casualty unit; Greg J. Doherty, former Marsh senior vp and ACE USA local broking coordinator team leader; and Kathleen M. Drake, former Marsh managing director and local broking coordinator team leader.

In February 2008, former Marsh Managing Directors William Gilman and Edward J. McNenney were found guilty of an antitrust charge but acquitted of other charges and were sentenced to 16 weekends in jail.

Marsh itself did not face any criminal charges in the case but paid \$850 million in January 2005 to end officials' bid-rigging and fraud probes.